

represent farmers more even-handedly, aiming to deal with problems in a practical and tactful manner before sending out formal prohibition notices without warning.

The Secretary said the Stocking and Damage Working Party had been asked to investigate the area by the Chairman and about 8 members had attended the meeting. Dr Beale had taken photographs, which showed extensive cattle poaching over a large area.

The Secretary reminded the Council again that any damage that needs reporting should come through Local Association Secretaries so that a certain amount of objectivity is maintained. Such complaints should have the support of the local commoners association when the Council is asked to investigate damage on a particular common.

The Secretary was asked to write to the Duchy concerning the problems around the leat.

7.5 **Mary Tavy**

The Secretary had received a letter from Mary Tavy Commoners' Association asking Members to view some areas of common that had been looked at last autumn. It was thought that the area most used by horses might be of interest, especially in the context of zero grazing of livestock over the winter. The Association has applied for ESA Tier 2b for the area, and so numbers of livestock would be low throughout the summer.

Dr Atkinson said that he had been assured the measures taken by the Dartmoor National Park Authority were in hand but he would look into the matter again. Dr Atkinson would respond on the current perception of the situation at the next meeting, and if necessary, a visit would be arranged.

7.6 **Radmore Sheep Grazing**

The Secretary had received letters from the Sheepstor Commoners' Association and the ESA Project Officer who are becoming exasperated by a commoner who is consistently exceeding his right to graze. The Defra officer has been out twice and carried out a count and found at least 50% more animals than the commoner's entitlement. Sheepstor Commoners' Association asked that Council members and Defra meet to carry out a count and take the necessary action.

8. **Date of Next Meeting**

The next meeting will be an Open Meeting on Wednesday 4 June 2003 at the Two Bridges Hotel, Princetown at 7.30 p.m.

Signed:.....*J. G. A. A. A.*.....

Dated:.....*4/6/2003*.....

Members agreed. The Chairman thanked Mrs Johnson for her work in preparing the accounts on Council's behalf.

3.1 Dartmoor Livestock Protection Officer

The Chairman reported that Council's contribution to this post is £2,000 per year & has remained at this level since the post was formed. He considered that the work Mrs Karla McKechnie does is invaluable & asked that the amount of money Council contributes be reviewed. Mr Maurice Retallick agreed & proposed that Council increases its contribution to £5,000 per year. Mr George Hill seconded the proposal. Council unanimously agreed to raise the annual contribution to £5,000 in addition to the amount contributed by Dartmoor Livestock Protection Society (DLPS). The Chairman agreed to advise Mrs McKechnie of this decision & thank her, on Council's behalf, for the work she does. Following concerns about the DLPO's employment status, the Chairman agreed to formally clarify this with Mrs McKechnie & the DLPS & to report back to Council.

4. Confirmation of Minutes

The revised minutes of the meeting held on 10 June 2015 were confirmed & signed. The Chairman went through the minutes of the meeting held on 5 August 2015 & asked if Council were happy that they be signed. Mrs Alford referred to point 6.3 Quasi-Rights & advised that she didn't consider it was agreed that 'a letter offering no objection might be provided' & requested that it be omitted from the minutes. Mr Coaker suggested that the recording of the last meeting be checked & the revised minutes be presented to Council at the next meeting for approval & signature.

5. Matters Arising

5.1 Basic Payment Scheme Payments

The Chairman recapped that considerable concern was expressed at the last Council meeting that payments for BPS & HLS agreements might be delayed this year. At Council's request, a letter was sent to the Minister setting out our concerns & copies were sent to all MPs with a constituency that includes part of Dartmoor (4 in total) & also to Bodmin Moor's interim Council, asking if they have the same concerns. Copies of these letters & responses to date were also forwarded to Lucy Thomas (local NFU secretary).

Acknowledgements have been received from all of the MPs & 3 of these have offered to raise the issue with the Minister. Defra are insisting that payments for BPS will be paid on time & that they will start HLS payments later this month or in November. Natural England have confirmed that they have passed the relevant information to the RPA.

5.2 Quasi-Rights

The Chairman confirmed that he had just received the written request from one of the owners of quasi-rights for Council to support his proposal to register these rights under the 2006 Commons Act. *(Since the meeting, this letter has been withdrawn by the sender who may redraft & submit another letter before Council's next meeting).* The Chairman also confirmed that a guidance note setting out the key points of quasi-rights from previous minutes had been provided to Council members which stated that any concerns should be put in writing to Council before today's meeting.

Letters raising concerns were received from Mrs Mary Alford, Vice-Chairman & Mr Colin Friend. All Council members received a copy of these letters as part of the correspondence list tabled at the meeting. Mrs Alford read out both letters & a lengthy discussion took place on the nature of quasi-rights, how they were generated & how

they are used. The Chairman advised Council of a letter he had received just before the meeting, stating that if Council agree to a motion recognising a new species of quasi-rights, "*litigation will inevitably follow*". The Chairman advised that the sender of the letter had been poorly informed & confirmed that this is definitely not the case. Council is not looking to change the status quo or do anything different & will reply to the letter accordingly.

Mr Anton Coaker advised that the guidance note produced did contain some errors & offered to address these with the Chairman. In view of this, Mrs Alford proposed that Council obtain independent legal advice on the complex issue of quasi-rights. Mr George Hill proposed that Council does not get legal advice but instead, revisits a statement, previously provided by Mr Mitchelmore, which clarifies quasi-rights. Mr Maurice Retallick seconded the proposal & it was agreed that Mr Michelmore's report be circulated to Council members prior to the next Council meeting, along with details of the quasi-rights that Council have recognised. It was also agreed that obtaining legal advice has not been ruled out at this stage.

5.3 Next Generation Dartmoor

The Chairman reported that following a request from this group of young commoners to meet with our Quartermen, Mrs Mary Alford recently hosted an event for them to meet the west Quartermen following the pony drift at Whitchurch. The Chairman thanked Mrs Alford & advised that Mr John Cooper will be hosting a similar event later this month with the north Quartermen & the south Quartermen have a date arranged for November. The event for the east quarter is scheduled for December but a Quarterman is needed to host this. The Chairman asked that the Quartermen from the east liaise & contact Sara to progress this.

5.4 SpeedWatch

The Chairman reported that at our last meeting, Council agreed to support this initiative to reduce the numbers of livestock injuries & deaths caused by speeding vehicles. The Chairman advised that the initiative is underway & Dartmoor Forest Parish Council will run this scheme under a new subcommittee of which Cllr Gregg Manning will chair.

5.5 TB Guidance Notes Update

Council has previously suggested to the Animal & Plant Health Agency (APHA) that a guidance note was needed as the regulations relating to TB on commons were complex. Council offered to work with APHA & draft a guidance note suitable for commons. This will be progressed later this month.

6. Matters brought forward

The Chairman reported the following:-

- Recently, changes to existing Environmental Stewardship agreements have been sought by Natural England. The reason the agreements require changes, results from mistakes linked to the inclusion of supplements &/or the incorrect application of options on the same area of land. In all cases the application process was approved by Natural England who has admitted responsibility for the alleged mistakes. Council is aware of 9 commons on Dartmoor affected by this situation & it is understood that some farm agreements will be similarly affected. Council has been contacted by 4 of the affected commons. Natural England say that now these 'mistakes' have been uncovered, by law, they cannot allow that agreement to continue in the way it was first drafted. The decision of which course to take is up to each individual association. Council is concerned that on some commons the complete removal of sheep would have severe

impacts on those that farm the commons, lears would be lost, overall sheep numbers would have to be reduced & sheep would be free to drift on to these commons from adjoining commons. The Chairman reported that the NFU are concerned that a legally binding agreement cannot be broken on a change of interpretation. The NFU policy board will meet to consider how to respond including considering a judicial review. Council also believes that these agreements were entered into in good faith & is also concerned that Natural England appears to be able to change or break a legal document on the basis of a change in their interpretation of how one supplement should be applied. Council members agreed that a letter offering support be sent to the NFU & letters expressing concern be sent to Chief Operating Officer, Natural England & other Natural England board members. It was also agreed that a letter be sent to the 4 affected commons that have contacted Council, alerting them to Council's position on sheep grazing. Following confirmation of the NFU's position, Council will contact the 9 affected commons proposing an opportunity to meet up & discuss the situation.

- The Foundation for Common Land (FCL) has produced a report 'Better Outcomes on Upland Commons' that includes case studies from Dartmoor. A second phase is proposed to produce guidance, advice & procedures to help commoners run commons & have better agri-environment schemes. FCL are to seek funding for this proposal from the Heritage Lottery Fund (HLF), who will require some match funding. All the partnership organisations have offered a contribution & Council has been asked to make a contribution. Mr Maurice Retallick proposed that Council pledge £1,000 per year for the first two years of the project, this was seconded by Mrs Ann Willcocks & the majority of Council members agreed to this. Council's pledge will only be accepted if the project goes ahead.
- Mr John Cooper reported on the Ten Tors Manager's Briefing which was held 10 October 2015. The event went well despite only two Council members attending when the MOD had requested three in order that the groups would be smaller for more intimate discussions. As a result, Mr Peter Harper (Chairman, Dartmoor National Park Authority) stepped in. The Chairman thanked Mr John Cooper & Mr Gordon Mortimore for attending. He said it was a shame that Council couldn't find a third person to attend & more of an effort should be made in the future.

7. Update from Dartmoor National Park Authority

Mr Steemson reported that there was a very successful Moorland Management Forum held on Sheepstor common recently. He thanked those who were involved.

The cycling leaflet that Council were involved in helping to produce, Granite & Gears, has had a lot of uptake via social media sites, from the information centres & various other distribution points.

The 'snow plan' meeting is scheduled for November & Council will be informed of the date as soon as it's been confirmed. The Chairman hoped that Council will be well represented at this meeting & advised that Devon County Council are looking for the meeting to be as constructive as possible. They have requested that representatives come up with ideas on how some of the problems can be avoided.

Mr Len Jones raised concerns about the Tour de Moor cycling event that took place recently. He's aware of numerous complaints & intends to meet with the various parties involved to produce a document on the health & safety of the event & present this to Council for comments.

Mrs Mary Alford pointed out that the Dartmoor National Park Authority was currently hosting the national visit for all National Parks in the UK.

8. TB Consultation Reply

Mrs Ann Willcocks reported on Council's response to the TB consultation which needs to be submitted by 23 October 2015. A copy of the response is available to Council members on request.

9. Ponies

9.1 Update on Drifts

Mr John Jordan reported on the pony drifts that had taken place so far. Overall, they have been a good success, the weather being a major contributor. Mr Jordan thanked all those that helped with the pony drifts this year.

9.2 Pony Action Group (PAG) Literature Review

The Chairman reported that PAG is progressing a literature review on pony grazing. The information will enable Natural England to review their position on how they recognise & reward pony keeping. Council's Pony Working Party have agreed a contribution of £500 towards the cost of the review, along with Natural England, Duchy of Cornwall, Dartmoor National Park Authority & the majority of the pony groups that are members of PAG.

10. Meeting Dates for 2016 – Appendix A

The proposed meeting dates & election dates for next year were agreed by Council. Those Council members up for election will be discussed at the next meeting.

11. Declaration of Interest Forms

The Chairman reminded Council Members that these forms are to be completed in order that Council has a record of what organisations & groups its' members sit.

12. Date of Next Meeting

The next meeting of the Council will be held on Wednesday 2 December 2015 at 7:30pm at Two Bridges Hotel, Princetown.

Signed:.....

Date:.....



MEETINGS OF THE DARTMOOR COMMONERS' COUNCIL FOR 2016

1. **Proposal**

The Dartmoor Commons Act 1985 states that four meetings are required in a year including the Annual Meeting & consideration of estimates. The following dates are proposed for 2016.

2 **Proposed Dates for Meetings**

Wednesday	27 January 2016	
Wednesday	23 March 2016	
Wednesday	15 June 2016	Royal Cornwall Show 9,10,11 June 2016
Wednesday	17 August 2016	(Annual Meeting)
Wednesday	19 October 2016	
Wednesday	7 December 2016	

2. **Considerations**

- 2.1** Estimates should be considered four months before the end of the financial year (30 June) as stipulated in the 1985 Act.
- 2.2** The Annual Meeting needs to be at least a month later than 1 July to allow the Annual Accounts to be completed and audited for presentation.
- 2.3** Working party meetings would be convened as required between the above dates to deal with specific issues.

3. **Proposed Dates for Elections**

Wednesday	25 May 2016	South Quarter	
Thursday	26 May 2016	East Quarter	Devon County Show 19,20,21 May 2016
Wednesday	1 June 2016	North Quarter	
Thursday	2 June 2016	West Quarter	

DARTMOOR COMMONERS' COUNCIL

Notes of Discussion Meeting of the Dartmoor Commoners' Council held virtually on Thursday 1 October 2020.

Participants:

Mr P French – Chairman	Mr J Cooper	Mr G Mortimore
Mr L Branfield – Vice Chair	Mr P Cottington	Mr M Radmore
Mr P Abel	Mr K Edwards	Mr M Reddaway
Mrs M Alford	Mrs C Faulkner	Mr R Steemson
Mr R Ashford	Mr J Jordan	Mr T Stratton
Mr P Cleave	Mr R Leigh	Mrs A Willcocks
Mr A Coaker	Mrs K Little	

Mrs S Sloman

Note

The Meeting scheduled for 16 September 2020 was postponed due to the latest Government guidelines regarding the coronavirus pandemic. It was rearranged for 1 October 2020. However, as restrictions were still in place on that date, Council could not hold a face-to-face meeting, so it was decided to trial a virtual meeting.

1. Chairman's Introduction

The Chairman thanked Council Members for their efforts to participate in the virtual meeting & explained that it would take the format of a discussion rather than a formal meeting. He advised that paperwork on various issues to be addressed would be circulated to Council Members for consideration in due course & all comments must be directed through the office.

2. Apologies for Absence

Received from Mr G Hill, Ms T May, Mr J Waldon, Mrs P Warren & Mrs K McKechnie (DLPO)

3. Confirmation of Minutes

The Chairman advised that there were three sets of Minutes waiting to be signed off by Council; 4 March 2020, 12 August 2020 (AGM) & 2 September 2020. These will be recirculated to Council Members for confirmation.

4. Matters outstanding from previous meetings:

4.1 Appointment by DNPA of Representative for Owners of Common Land

The Chairman welcomed Penny Warren who, under Section 3 (2) (d) of the Dartmoor Commons Act 1985, has been appointed to represent the interests of owners of common land on the Council. This is for a period of four years ending 1 July 2024.

4.2 Public Space Protection Order (PSPO) Consultation

The Chairman thanked those Council Members who contributed to Council's response to this West Devon Borough Council consultation relating to dogs in public spaces. The current PSPOs are due to be renewed October 2020.

A copy of Council's response is available from the Office upon request.

5. Correspondence received by the Chairman or Office Administrator:

5.1 Duchy of Cornwall: Agistments - South Quarter of Forest of Dartmoor

Proposed changes to the agistments following retirement of the agister. A copy of the letter together with some additional information will be circulated to all Council Members for comment in due course.

5.2 Okehampton Commoner: Reduction of Stocking Levels by NE

Allegedly, Natural England (NE) has requested that all sheep to be removed from Okehampton Common from September until spring next year. As yet, Council has not received an official request from Okehampton Commoners' Association to become involved. However, the Chairman has written to Eamon Crowe, NE expressing his concerns over the purported stories & press reports. He has requested a meeting with NE to try & establish exactly what NE's future policy is & the implications this may have across Dartmoor. Furthermore, the Chairman has visited Okehampton Common to see for himself the situation 'on the ground'. He thanked Tracy May for showing him around. The Chairman has agreed to keep Council members updated on the matter.

5.3 General Letters x 2: Pony Drifts

The letters raise some general issues & questions. One letter has also appeared in the local paper. The Chairman intends to circulate copies of both letters to all Council Members for comment before sending a response.

6. Report & Recommendations from Pony Working Group

John Jordan gave a brief update on the meeting held 21 September 2020. A note of the meeting is attached (Appendix A). All of the recommendations for action were agreed by Council. This included Council sending a letter to the Royal College of Veterinary Surgeons (RCVS) who are undertaking a review of the legislation that only a registered vet may implant a microchip in an equine. The Pony Working Group had asked Charlotte Faulkner & Stuart Lake to provide Council with draft wording for the letter.

7. Condition of the Commons:

7.1 Update on Review undertaken by Ann Willcocks

Ann reported that the draft review document now includes a record of the discussions held with various people prior to lockdown. It states what is considered to be wrong with the current management of the commons & Ann is in the process of finding the relevant evidence to support what is being claimed. In due course, solutions will need to be identified & the document will need to include recommendations for best working practice.

7.2 Considering Introduction of Charter for Management Works on Commons

Ann would like to see the above-mentioned document develop into the production of a charter that sets out what the relevant groups & organisations consider to be important. This could be fed into ELMS & used in discussions on how future agri-environment agreements are reached & who must be consulted.

Council Members agreed that Ann continue with this piece of work. Ann will tidy up the current review document & circulate it to Council Members for comment. The Chairman thanked Ann for all of the work she has done so far.

8. Update from Dartmoor National Park Authority

Rob Steemson reported the following:

DNPA Management Plan Consultation

The responses are being analysed & it is hoped that a report will be presented to the Authority in November outlining any proposed changes. DNPA thanked Council for their response.

Recreational Events

DNPA's COVID-19 position statement (see Council Minutes 12 August 2020) remains the same. The consultation process for 2021 events will open in October depending on any new advice from Government.

Prohibition on Camping

The prohibition period on camping at Bellever/Riddon Ridge finished in early September. The supporting Marshalls continued at weekends until the end of that month & the initiative proved very successful. DNPA are looking at various options & potential funding sources to have a similar, wider initiative in place for 2021.

At this point, the Chairman lost internet connection. The Vice-Chairman reported that Council had sent a letter of thanks to Alison Hernandez (Police & Crime Commissioner) for providing DNPA with the funding used to employ the supporting Marshalls.

Ten Tors Team Managers Training Day

This will be held virtually on Saturday 10 October 2020. Rob is undertaking the DNPA presentation. He will pick up & place extra emphasis on the important role of farming on Dartmoor & the key requests that farmers normally underline.

The Chairman re-joined the meeting.

9. Presentation- Harriet Bell (Dartmoor Environmental Land Management Officer)

After introducing herself, Harriet gave a brief outline of Defra's Environmental Land Management Scheme using their generic presentation 'Our Vision for a Future Scheme'. Copies of the presentation slides are available from the Office. Harriet then gave a presentation on Dartmoor ELM Test & Trial & the slides accompanying this are attached (appendix A). The Project is being overseen by a Project Board & an Advisory Team. The Project Board is made up of Dartmoor organisations with representation from National Park Authority, Hill Farm Project, Commons Owners Association, Council & Natural England. It is independently chaired by John Waldon. The output of the Dartmoor Test & Trial is steered by a volunteer Advisory Team, all of whom would welcome input & feedback from Dartmoor farmers.

All information on the Dartmoor ELM Test & Trial can be found on the Dartmoor Hill Farm Project website <https://www.dartmoorhillfarmproject.co.uk/elms>

Philip French thanked Harriet for doing the presentation.

10. Date of Next Meeting

The Chairman said that the meeting scheduled for 21 October 2020 was unlikely to go ahead due to the Government's latest Coronavirus guidelines.

He advised that some matters will be addressed electronically. Council members will receive an email with all the relevant information on a specific topic & be asked to comment accordingly.

The Chairman thanked everyone for participating in the virtual discussion & declared the meeting closed.



DARTMOOR COMMONERS' COUNCIL

Notes of Pony Working Group Meeting Monday 21 September 2020

Overview of Current Issue & Drift Dates

North Quarter

Letter from Chairman of Okehampton Commoners' Association asking Council to arrange drifts in certain areas of the North quarter to collect unmarked ponies that they say are coming from the Forest or neighbouring commons. **Action:** Recommend to Council that letter is sent advising that it's the Association's responsibility to gather & deal with unmarked ponies grazing the common & that the drifts must include each quarters area of the Forest.

Chagford drift: Sunday 4 October 2020

South Quarter

Concerns were raised regarding the number of unmarked ponies on Dean Moor. **Action:** Recommend to Council that a letter is sent requesting that the Association clear up the unmarked ponies on their common.

Harford & Ugborough drift: end December/beginning of January 2021

East Quarter

The Strangles outbreak is still prevalent on Spitchwick Common. Ponies are being monitored regularly & will remain in the common. There will be no drift in this area until the disease has run its course.

Concerns were raised regarding the number & condition of unmarked ponies on Haytor Commons. DLPO has received lots of complaints regarding the welfare of these ponies. As the 'gateway to Dartmoor', this is not giving out a very good message. **Action:** Recommend to Council that letter is sent to the Association requesting that the ponies are gathered & dealt with by 31 October 2020.

Widcombe drift: 29 September 2020

Hameldown drift: 2 October 2020

West Quarter

Roborough Down carried out drift on the airfield side on Sunday 20 September 2020. It was reported that a pony keeper (with no common rights) had 30 ponies brought in with the drift. A number of which were turned back out. Furthermore, DLPO has since been called to a welfare issue where a mare, belonging to the same pony keeper, was on the airfield side of Roborough Down screaming to its 6 week old foal that had been dumped on the Clearbrook side, along with 3 other foals. The latter issue has been dealt with, thanks to DLPO & a local Quartermen. However, the illegal ponies that have been turned back out on to the common will need to be addressed. **Action:** Recommend to Council that a letter is sent to pony keeper giving them 7 days to remove all ponies from the common or else Council will take legal proceedings.

Shaugh Prior Commoners are unable to agree on a drift date. It was agreed that a drift needs to take place as soon as possible & not left until next year. **Action:** Recommend to Council that a letter is sent to Shaugh Prior Commoners' Association requesting that a drift takes place before the end of the year which must include the Willings Wall & Hentor Warren area.

Changing Legislation & Microchipping

From 1 October 2020, it will be mandatory in England for all pony keepers to microchip their ponies. However, this does not apply to ponies that are on Council's derogation database. Furthermore, ponies under 12 months old can leave the derogated area & go direct to slaughter on just a rump sticker (providing no medicinal treatment has been received). Ponies 12 months & over can leave the derogated area to go direct to slaughter on a passport & a rump sticker, but do not require a microchip (unless they've received medicinal treatment).

Chagford Pony Sale – Thursday 8 October 2020

Stallion Accreditation – Wednesday 21 October 2020

Semi-Wild Equine Forum

Defra's Equine ID team held the inaugural meeting in July (virtually) with semi-wild equine stakeholders. John Jordan, Philip French & Charlotte Faulkner represented Council. Defra has produced a note summarising the main points of the meeting & have asked that it is only shared with those immediately relevant to semi-wild equines. Council's representatives felt that the note was extremely useful & will strongly encourage the producing of a note following future meetings.

Current regulations state that only a registered vet may implant a microchip in an equine. Stakeholders agreed that hiring a vet for microchipping semi-wild equines made no economic sense & suggested that group members lobby the Royal College of Veterinary Surgeons (RCVS), who are reviewing the legislation. The Pony Working Group asked that Charlotte Faulkner & Stuart Lake draft a letter to be sent to RCVS. **Actions:** Recommend that Council send letter to RCVS once drafted & approved & that Council's representatives on this group will be Philip French, Mary Alford/John Jordan & Charlotte Faulkner.

Pony Action Group (PAG)

Recommend to Council that Council's representative is Phil Abel.

Pony Working Group Terms of Reference

These have been reviewed & will continue along the same lines.

Date of Next Meeting

To be confirmed.

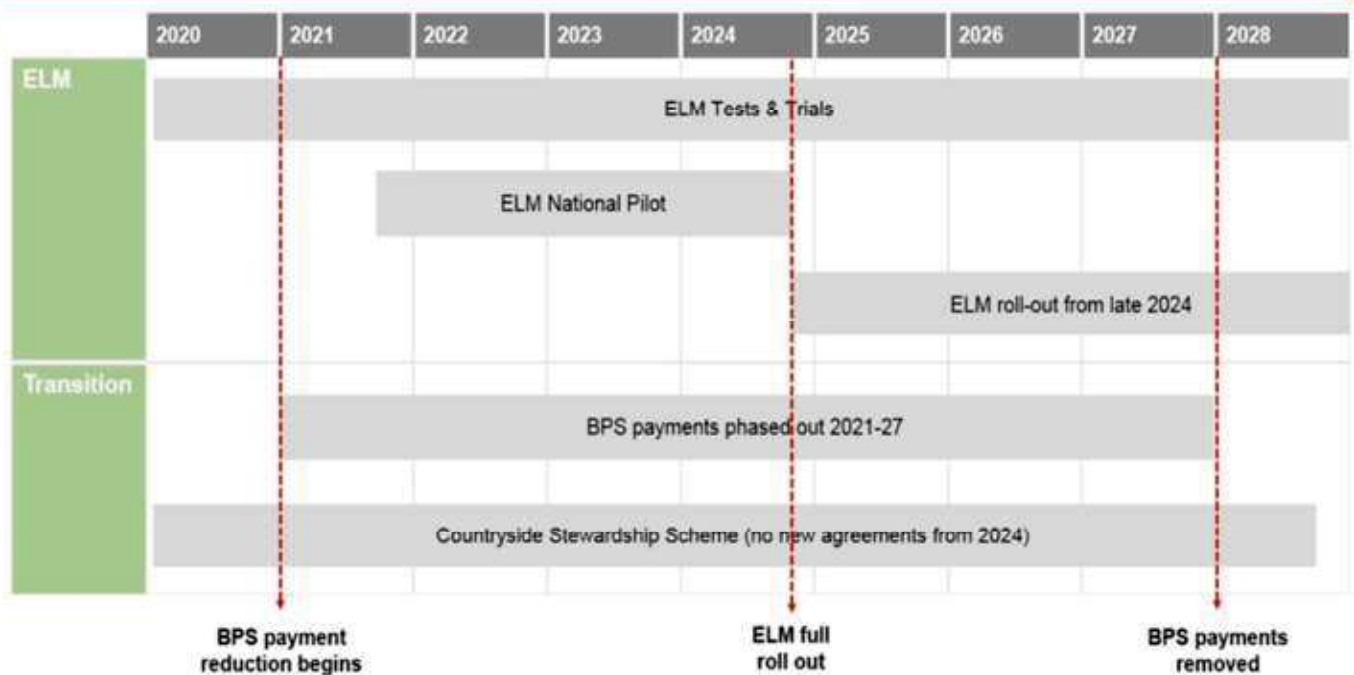
Dartmoor ELM Test and Trial

Harriet Bell

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07923 203718

Proposed timeline

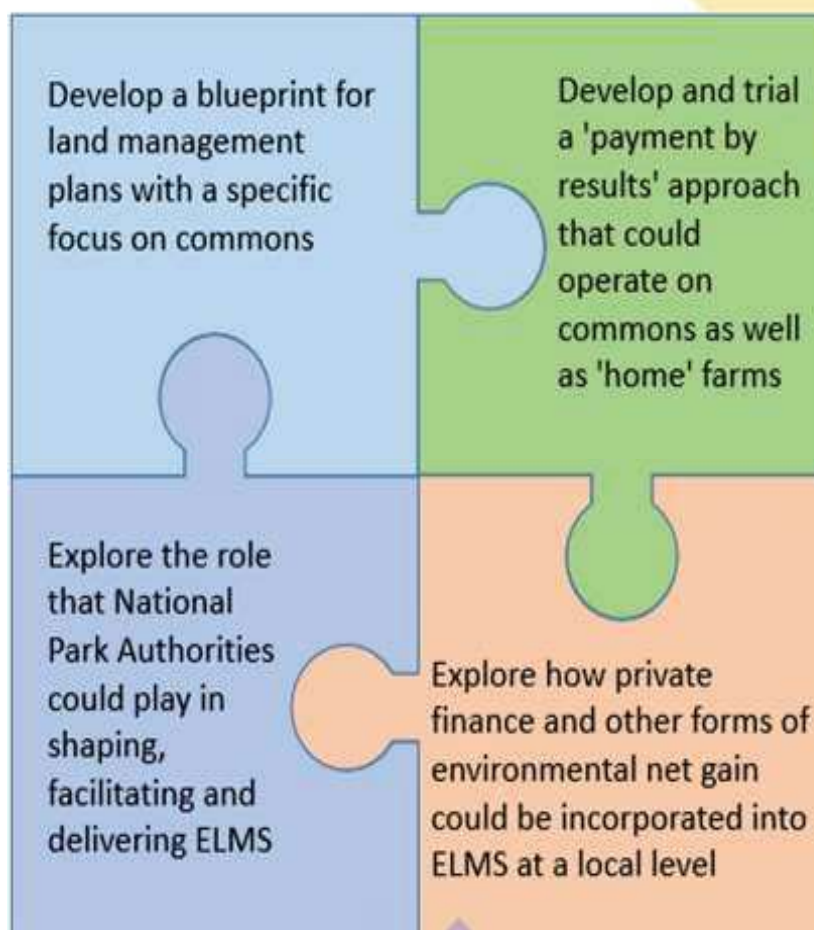


Dartmoor Test and Trial Objectives

Timescale Jan 2020 – Nov 2021

More information available:

<https://www.dartmoorhillfarmproject.co.uk/elms>



Dartmoor Test and Trial Governance

Project Board:

“The Project Board will have oversight of project delivery but also be a point of connection between the Dartmoor ELMS T&T and wider industry and policy developments.”

Advisory Team:

“The Dartmoor ELMS T&T will be farmer led, coordinated by a volunteer Advisory Group of active farmers which will provide strategic direction for the project. The aspiration is to achieve a recommended approach for the delivery of ELMS on Dartmoor which reflects community consensus.”



Develop a blueprint for land management plans with a specific focus on the commons

What's happened:

- Extensive discussion by the Advisory Team about what should be included
- The decision that it should be based on a scorecard with farmer led mapping and optional advice
- A model for advice has been agreed and submitted to Defra:
<https://www.dartmoorhillfarmproject.co.uk/post/proposed-elms-advice-model-from-dartmoor-test-trial>

What's in progress:

- James Moran and the Organic Research Centre have been commissioned to develop a scorecard and payments by results model
- Ongoing discussion about how ELM should work for common land

What will happen:

- Trial scorecard on home farms and commons
- Agree an appropriate accompanying approach to mapping
- Final report to Defra

Develop and trial a 'payments by results' approach that could operate on commons as well as 'home' farms

What's happened:

- Initial scoping paper on payments by results written and submitted to Defra, available here: <https://www.dartmoorhillfarmproject.co.uk/post/introducing-payment-by-results>
- Whilst originally considered a separate element to the Land Management Plan the Advisory Team determined that we should explore delivering all of ELM on a payment by results basis

What's in progress:

- James Moran and the Organic Research Centre have been commissioned to develop a scorecard and payments by results model

What will happen:

- Trial payment by results on home farms and commons, with the potential to be done as a practical exercise involving payments
- Final report to Defra

Explore how private finance and other forms of net gain could be incorporated into ELMs at a local level

What's happened:

- Discussion with Advisory Team on blended finance including different income sources and potential models for receipt of investment

What's in progress:

- Workshop with Michelmores's clients around investment

What will happen:

- Agree/develop the best model to attract and receive investment in Dartmoor
- Agree/develop a model for collaborative between farmers/land managers action at a landscape scale to deliver on funding
- Practical test on two case study farms
- Final report

Explore the role that National Park Authorities could play in shaping, facilitating and delivering ELMs

What's happened:

- Working paper on the use of the Natural Capital framework for local priority setting, available here: <https://www.dartmoorhillfarmproject.co.uk/post/how-feasible-is-the-use-of-naturalcapital-for-local-priority-setting-within-dartmoor-national-park>
- Discussion with Advisory Team on setting spatial priorities including the use of the Dartmoor National Park Management Plan, notes available here: <https://www.dartmoorhillfarmproject.co.uk/post/who-or-how-do-we-set-spatial-priorities>

What's in progress:

- Paper outlining framework for local priority setting

What will happen:

- Report on process for local priority setting and landscape-scale planning
- Report on advice required/role of facilitation

DARTMOOR COMMONERS' COUNCIL

Notes of Discussion Meeting of the Dartmoor Commoners' Council held virtually on Wednesday 17 February 2021.

Participants:

Mr P French – Chairman	Mr A Cooper	Mr G Mortimore
Mr L Branfield – Vice Chair	Mr J Cooper	Mr M Radmore
Mr P Abel	Mr K Edwards	Mr M Reddaway
Mr C Alford	Mrs C Faulkner	Mr R Steemson
Mrs M Alford	Mr J Jordan	Mr T Stratton
Mr R Ashford	Mr R Leigh	Mr J Waldon
Mr P Cleave	Mrs K Little	Mrs P Warren
Mr A Coaker	Ms T May	Mrs A Willcocks
Mrs S Sloman	Mrs K Mckecknie (DLPO)	

Note

Due to the coronavirus pandemic & current Government lockdown restrictions, Council was unable to hold a face-to-face meeting. A virtual discussion was held for Council Members to update them on a number of matters that Council had addressed since October last year. Although this was not a formal meeting, the notes from the discussion are set out in the same format as Council Minutes.

1. Chairman's Introduction

The Chairman welcomed Council Members & thanked Ann Willcocks for arranging the technical aspect to enable the virtual discussion to take place.

He also welcomed Andrew Cooper, the National Park Authority's Member representative (appointed by the Secretary of State), who is deputising for Derek Webber with immediate effect & will hold the voting right until further notice.

2. Apologies for Absence

Received from Mr P Cottington & Mr S Lake.

3. Matters outstanding from previous meetings:

3.1 Condition of the Commons Review & Charter for Management Works on Commons – Update by Ann Willcocks

The Chairman thanked Ann for the huge amount of work, which is ongoing, that she has spent into producing a document titled 'The State of the Commons on Dartmoor: A Common Perspective'. A copy of the document had been circulated to all Council Members.

Ann expressed her disappointment that the document had been forwarded to non-Council Members. She was concerned that the document was still very much a working progress; it contained sensitive information, was currently valueless as it had not been vetted or approved & was not fit to be in the public domain.

Moving on, Ann asked for some volunteers to read through the document & critique it. Tracy May, Kate Little & Mary Alford offered to do this. Also, Ann is

keen that all members of Council have an opportunity to provide input & hopes to correlate small groups of Members who are interested in participating. Please contact Ann if you would like to be involved.

The Chairman reiterated Ann's concerns that this document had been circulated outside of Council. He emphasised that Council Members have a duty to keep certain matters, including working documents, confidential.

4. Natural England

4.1 Problems with Higher Level Stewardship Extensions on Commons

The Chairman advised of a growing frustration at what appeared to be the targeting of sheep removal by Natural England (NE) before a common's agreement is offered an extension, although this has been denied by local NE staff. Understandably, effected Local Commoners' Associations (LCAs) are reluctant for Council to become directly involved. However, it has become evident that there are significant disparities in the way that NE is applying the rules & conditions for HLS Extensions on commons nationally.

Layland Branfield reported that he & Phil Cleave represent Dartmoor on a group, made up of national organisations acting for commoners, formed to address the inconsistencies within NE. The Group has written a letter, setting out its concerns, to Tim Farron (Chair of the All-Party Parliamentary Group on Hill Farming), requesting that he takes the matter up with Defra & the Minister of State. A similar letter will be sent to Neil Parish (EFRA Chair) & local MPs. Council has been asked to put its name to the letter. As there were no objections from Council Members, the request has been granted.

The Chairman thanked Layland, Phil Cleave & the other organisations involved in dealing with this matter.

4.2 Meeting with Natural England (Eamon Crowe & Wesley Smyth)

The Chairman reported that concerns over requests by NE to reduce stocking levels on a number of commons across Dartmoor were raised. However, the answers given brought about the Chairman's & Vice-Chairman's frustration which partly led to supporting the above-mentioned action.

Swaling

Devon & Somerset Fire & Rescue Service (DSFRS) & NE have requested that Council ask all LCAs to suspend any planned burning throughout the current lockdown period & that it not be resumed until 1 October 2021. This request is supported by DNPA. Given COVID-19 restrictions & guidance we do not want to put additional pressure on the Emergency Services or put their staff or local commoners at risk. Council has obtained a commitment from NE that LCAs will not be penalised & NE have agreed to put a three year plan into agri-environment agreements to take account of the backlog. They will not expect commons to condense the backlog into one year's burning. Additionally, NE has confirmed that, providing LCAs have already obtained the various consents from NE/RPA to burn an area, the gorse/bracken may be cut instead up until 31 March. Please notify NE when/where cutting is taking place by emailing the usual mailbox DevonCornwallandIslesofScilly@naturalengland.org.uk

The Chairman reported that regular discussion meetings with NE will continue.

5. Ponies

The Chairman advised that as Council's Pony Working Group had not met since September, he wanted to update Council on a number of issues. He reported that the autumn/winter ponies drifts were reasonably successful & thanked those Council Members that helped organise some of the drifts.

North Quarter

Tracy May helped co-ordinate a drift with Okehampton Commoners & part of the Forest.

South Quarter

The southern most part of the Forest was drifted with the help of three Forest Commoners & nine commoners from Harford/Ugborough & South Brent. Although Council has written to both Dean Moor & Buckfastleigh Moor LCAs requesting that they deal with the unmarked ponies on their commons, this has not been addressed. Ann Willcocks has offered to liaise with the Associations secretaries to try & get something organised.

West Quarter

A pony keeper who no longer had common rights was still grazing a number of ponies on Roborough Down. Council had previously agreed to start legal proceedings. However, in the event, the Chairman worked with the Chairman of the LCA, the offending pony keeper, Karla (DLPO) & another pony keeper with pony rights on Roborough Down to sort the issue. The illegal ponies have been sold/given to the pony keeper with sufficient common rights to graze the common & the issue has been resolved. The Chairman thanked Karla for her efforts.

East Quarter

Unfortunately, Strangles is still spreading amongst ponies on the commons in the East Quarter. Council has sent a note to all Quartermen requesting that they alert pony keepers in their area & ask that they refrain from moving ponies on/off the commons unless for welfare purposes. As such, any efforts to gradually remove the unmarked ponies on Haytor are on hold.

Pony Consultation

A proposal, made by the Chairman, to conduct a consultation with Council Members & other interested parties with the aim of creating a list of options, in line with Council's existing pony regulations (including the derogation), for consideration by Council has been passed (20 votes in favour of the proposal & 1 against). The consultation will be lead initially by the Chairman & Ann Willcocks who will begin to collate Council Members' pony related views & issues. Once this has been done, it will be brought before Council's Pony Working Group for comment. John Jordan, Chairman of Council's Pony Working Group requested that a pony meeting be arranged. However, he has since clarified that his request was premature & appreciates that the initial work needs to be carried out before a meeting will take place.

6. Sheep Clearance – Reports from Quartermen

Quartermen reported that the clearance was generally good in all quarters, with nothing of any significance to tell of.

7. Dartmoor Livestock Protection Officer – Update

Karla McKechnie read out her report, a copy of which is attached (Appendix A).

A general discussion took place on the issue of sheep worrying & what can be done:

- Now that dogs must be microchipped, could a national dog register be set up to identify habitual offenders?
- DLPO could issue a press release highlighting the issuing of Dog Control Orders & compensation paid in the hope that this would encourage dog owners to have control of their dogs when around livestock.
- Educate dog rescue homes & offer to help them to train the dogs around livestock?

8. TB: Annual Review Meeting with APHA & TB Working Group.

Due to Government lockdown restrictions, it has not been possible to arrange a face-to-face meeting. Approving this year's Cattle Grazier pack & finalising matters for this year's licence applications will be dealt with by email. If necessary, a virtual meeting will be arranged.

9. Mires Restoration Project – Update by Anton Coaker

Anton explained that this trial was set up to explore the feasibility & effects of restoring degraded areas of high quality blanket bog, using experimental techniques to reduce erosion & promote regeneration of moorland bog vegetation. The project, run by the South West Peatland Partnership & primarily led by DNPA & South West Water, aimed to conserve & enhance habitat for upland wildlife, improve water supply & increase the potential to store carbon & mitigate climate change impacts. Both Anton & Mary Alford represent Council on the Steering Group. The Partnership is steadily expanding its operations, & despite running for almost a decade, the 'significant rewards' continually promised to effected commoners are not apparent. Anton has previously raised concerns & warned the Group that sites could potentially be in short supply as commoners become increasingly less interested in participating in the rewetting project. He wanted to bring it to Council's attention that the game has changed slightly.

Furthermore, Anton reported that recent works in one area has caused great concern to commoners & considered to be 'an absolute disgrace'. The site at Hangingstone & Whitehorse Hills in the north quarter of Dartmoor, including the damming of the Higher Phillpotts Peat Pass, has raised a number of concerns & highlighted the vulnerability of this area of international importance. What were 'little muddy puddles' has become an area of expansive, deep pools. This has a significant impact on the amount of vegetation available over which commoner's livestock can graze. The vast amount of standing water is considered to be a danger, not just to the livestock but to people as well. This raises questions of duty of care & liability with the hazards having been deliberately created. The Trustees of the Forest of Dartmoor Commoners' Association have written to DNPA with their concerns & are awaiting a reply. The damage caused by the diggers is deemed unacceptable – if commoners had caused similar damage they would be heavily penalised by NE. Moreover, this work has been carried out without consultation & the historic & cultural significance of this area appears to have been completely ignored. There are an increasing number of calls that the work be stopped.

Ally Kohler (DNPA) is arranging a meeting to try & organise the prospect of some reward.

The Chairman suggested that a small group get together to discuss what support Council could offer. Anton agreed to take the lead & initially collate comments from those affected.

10. Dartmoor Marshalls

The Chairman advised Council Members that DNPA are in the process of drawing up tender documents for National Park Marshalls, following the success of using them last year to address visitor management issues. DNPA has written to Police & Crime Commissioner for Devon & Cornwall (PCC) requesting financial support for the scheme & Council has been asked if it would be interested in contributing. Following a discussion, the request for financial support was not supported by Council Members. However, Members did agree that Council write a letter to the PCC supporting DNPA's request.

11. Members representing Council at Meetings:

- **RPA Commons Stakeholder Group***: 15 Oct 2020 - Philip French
- **MOD Dartmoor Working Group***: 21 Oct 2020 - Philip French & John Cooper
- **Dartmoor Commons Owners' Association**: 27 Oct 2020 - Philip French
- **NCLSG/Defra Commons & ELMs Meeting***: 27 Oct 2020 - John Waldon.
Council did not receive an invite. However, John attended via Dartmoor Farming Futures & Ann Willcocks through NFU
- **Trading Standards Farming Partnership**: 24 Nov 2020 - Charlotte Faulkner
Mental Health & Wellbeing in Farming
- **Semi Wild Equine Forum***: 4 Dec 2020 - Philip French, Mary Alford & Charlotte Faulkner
- **MOD Dartmoor Steering Group***: 10 Dec 2020 - Philip French
- **FCL/Federation of Cumbria Commoners**: 14 Dec 2020 – Open to All
An update on ELM & Defra Test & Trials for Commons

*Notes available. If any Council Member wishes to receive copies, please email office@dartmoorcommoners.org.uk

10. Date of Next Meeting

The Chairman thanked everyone for their attendance & advised Council Members that a further virtual catch up meeting will be held mid-March.



Dartmoor Livestock Protection Officer's Report

Road Traffic Accidents (RTA)

A quick resume on last year's RTA figures:

142 animals in accidents. This is the lowest number since 2015.

113 dead; 29 injured:

- Ponies 13 dead; 12 survived
- Sheep 94 dead; 14 survived
- Cows 5 dead; 3 survived

Top speed recorded on the speed monitor for Bennett's Cross was 103mph in March 2020 & for Sharpitor at Peek Hill was 121mph.

RTAs this year (2021) = TOTAL 1

Dog Attacks

In 2020 there were 78.

This year (2021) there have been 18 dog attacks already, which is horrendous. I cannot stress enough that Dartmoor has got a serious problem with out-of-control dogs attacking sheep. I am not looking forward to lambing season & if anyone wants any posters, please give me a shout.

Any attacks, please let me know as I am criming them all with the Police.

Strangles

Sadly, Strangles is still amongst the ponies on the Moor, having started last summer on Spitchwick Common. I've seen cases at the top of Southcombe Hill, Natsworthy Gate, Widecombe Hill, Pudsham Down & I'm told there's an outbreak at Cornwood. I am monitoring them. Problems such as this generate a lot of public awareness & phone calls.

Other

I had to dispatch a pony with a badly broken leg near Childe's Tomb, Fox Tor Mire. It was challenging crossing the Swincombe after torrential rain.

A yearling was trapped by a back leg in a clapper bridge at Clearbrook. After it was freed, it was apparent it had a broken leg & had to be dispatched.

There have been plenty of sheep problems, whether they're where they shouldn't be, wrapped in barbed wire or lame etc.

Please keep all reports coming in to me.

Many thanks, Karla

DARTMOOR COMMONERS' COUNCIL

Minutes of the Meeting of the Dartmoor Commoners' Council held at Two Bridges Hotel, Princetown on Monday 7 February 2022.

Participants:

Mr P French – Chairman	Mr W Dracup	Ms T May
Mr L Branfield – Vice Chair	Mrs C Faulkner	Mr G Mortimore
Mr P Abel	Mr G Hill	Mr M Radmore
Mr C Alford	Mr J Jordan	Mr M Reddaway
Mrs M Alford	Mr S Lake	Mr R Steemson
Mr R Ashford	Mr R Leigh	Mr T Stratton
Mr P Cleave	Mrs K Little	Mrs P Warren
		Mrs A Willcocks
Mrs S Sloman	Mrs K McKechnie (DLPO)	

Open Meeting

The biannual opportunity for members of the public to address Council prior to the start of the meeting was offered by the Chairman.

Charlie Serpell, Chairman of Hentor Warren & Willingswall Warren (HW&WW) Commoners' Association, read out a statement on behalf of the commoners with grazing rights, registered at Devon County Council under the Commons Registration Act 1965, over the HW&WW part of Shaugh Prior Commons CL190. This part of the common is owned by the National Trust & the statement highlighted the longstanding, on-going issues regarding the management of this land, which is SSSI & the ambiguity surrounding the right to graze this land that the National Trust has offered two separate tenants. Mr Serpell & those commoners he represents believe that they have suffered an injustice due to one of the tenants inclusion on Council's live Register. They believe that this has resulted in HW&WW Commoners' Association losing its HLS rollover agreement with Natural England & ask that Council look into this matter without further delay & clarify the position.

The Chairman responded that Council's Working Group is continuing to look into a number of issues relating to Shaugh Prior Common. He apologised for the time it is taking & advised that, although he shared Mr Serpell's frustration, it is important that these complex matters are thoroughly looked into. Council will address the points raised in due course.

1. Chairman's Introduction

The Chairman welcomed everyone to the Meeting & thanked Members for their understanding of meetings being postponed & rearranged on different days due to the on-going impact of COVID-19.

He formally advised Council of Alison Kohler's retirement at the end of last year & the appointment of Richard Drysdale as the new Director of Conservation & Communities for Dartmoor National Park Authority.

2. Apologies for Absence

Received from Mr A Coaker, Mr J Cooper, Mr P Cottington & Mr K Edwards.

3. Confirmation of Minutes

The minutes of the last Council Meeting had been circulated to all Council Members requesting that any comments be made in advance of tonight's meeting. No comments were received & the minutes of the Meeting held 1 December 2021 were confirmed & signed.

4. Matters outstanding from previous Meetings:

4.1 Natural England – Common with SSSI not in agri-environment agreement

At the last Meeting, it was agreed that the Council consider whether the Dartmoor Commons Act 1985 has any bearing on Natural England (NE) & Defra's ability to impose restrictions on SSSI land. Although the general consensus is that Council has no such powers under its Act, members are very concerned at some of the recent actions taken by NE & felt that a more definitive answer should be pursued & to consider whether to obtain a legal opinion on the strength of a commoner's right to graze vs NE's empowerment to remove graziers, purchase land & enter into agreements with landowners i.e. conservation covenants. Following a discussion, while it was reported that the Foundation for Common Land is addressing some issues nationally, it was suggested that questions specific to Dartmoor (with its Act), be prepared with a view to seeking a quote for legal advice for further consideration by Council.

The Chairman reported on a letter, received from a commoner, requesting Council's support. The common over which they graze has SSSI status & has not rolled over its agri-environment agreement. Consent to graze was requested from NE in December & the commoner has continued to graze their livestock at the stocking level stated within the agreement. However, they have now been threatened with legal action by NE for not removing all of their stock from the common until permission to graze has been granted, which could take up to 4 months. Council Members strongly objected to NE's handling of this matter & agreed to support the commoner by sending a letter to NE challenging their actions. It was also agreed to question NE on whose responsibility it would be to shepherd straying stock from a common, not in an agreement, with no grazing livestock due to NE not giving SSSI Consent.

4.2 Night-Time Events

It was previously agreed to clarify the position with DNPA regarding the approval of recreational night events as it was understood that the Recreation Events Policy did not support night-time events. The policy, drawn up by DNPA, Council & the Common Landowners Association & adopted in January 2019, states **'there will be a presumption against all night events on Dartmoor, whatever the size. Events will be considered on a case by case basis & will be dependent on the level of anticipated impact, including disturbance to stock, wildlife & local communities. For a night event to be supported it must have full support from all consultees'**. The Policy advises that all events must be notified to DNPA no less than 8 weeks prior to the event. Once received by the secretary of Commoners' Council, the notifications & event consultations are circulated to the relevant Local Commoners' Association secretaries & Quartermen for comment directly to DNPA.

5. Matters brought forward at the direction of the Chairman

5.1 Government Response to the Landscapes Review

Defra has launched a consultation seeking views on the Government's response to the landscapes review carried out by Julian Glover (which Council responded

to). The Chairman intends to arrange a working group to look at the document & formulate a draft response on behalf of Council. Please advise the secretary if you wish to participate. The consultation closes 9 April 2022.

5.2 Harriet Bell

As you may be aware, Harriet has now finished the Test & Trials Project, the results of which are on the Hill Farm Project section of the DNPA website. Harriet has built up a good relationship with commoners & the Chairman felt it would be beneficial for Council to set up a working relationship with Harriet who would be able to offer ad-hoc assistance to Council & help respond to certain consultations. With no objections from Members, the arrangement will be trialled & formally reviewed at the AGM.

5.3 Swaling

Rob Steemson confirmed that there is currently no embargo on swaling for this season. It was acknowledged that the Swaling Checklist leaflet, dated 2019, was slightly out of date in that it refers to the Heather & Grass, etc. (Burning) Regulations 2007, which were updated in 2021 & the Fire Service contact number has changed. However, there are currently no plans to reprint the leaflet. The secretary will ensure that the details on Council's website are correct. Please note

Devon & Somerset Fire Control Contact Number is 03333 990 014

5.4 Wild Fire Training

Rob Steemson reported that due to the high number of Covid cases in the Fire Service, the arranged training evenings had been cancelled. For the purposes of Commoners updating their ticket to enable them to assist the Fire Service on any wild fire call out, the process for the time being is to read & understand electronic guidance issued by the Fire Service, which has been circulated to Local Commoners Association secretaries. Rob must be advised that the 'online training' has been completed by the set date to enable him to organise the respective fire tallies. Rob's contact details are Tel: 07711 856206 or Email: rsteemson@dartmoor.gov.uk

6. News Article for January 2022

The draft article was approved by Council slightly later than planned due to the postponement of Council's last meeting.

7. Financial Estimates for 2022/2023

Copies of the estimates were sent to all Council Members in advance of tonight's meeting. Members discussed the projected shortfall & its potential increase due to a rise in the personnel costs budget if Council agrees to the Chairman's proposal to prioritise the work being carried out to verify all common rights registrations on Council's Register & complete this exercise as soon as possible.

The Chairman further proposed that Council draw from its reserves to cover the projected deficit rather than increase the contributions due from commoners.

Both proposals were agreed & the financial estimates for 2022/2023 were formally approved.

Backing Up Paper Records

The Chairman again raised his concerns that all of Council's records prior to 2012, including Minutes, are held in paper format only & that these documents could be permanently lost if there was a fire or flood, for example. He felt that Council needs to seriously consider getting these backed up electronically. It was suggested that Council may be able to apply for a Heritage Lottery Fund Grant to have the papers archived & the Chairman agreed that this be looked into further.

8. Dartmoor Commoners' Council Elections 2022

Initial details of which councillors are due for election were sent out with the agenda (see Appendix A). These details will also be sent to all Local Commoners' Association Secretaries for onward circulation to registered commoners. Nominations can be received up to 7 days before the election dates & further details will be circulated in due course.

9. Members representing Council at Meetings:

- **Peatland Partnership:** 7 December 2021 – Philip French
- **Defra Semi-Wild Equine Group*:** 9 December 2021 – Philip French
- **MOD Steering Group:** 29 December 2021 – Philip French
- **Our Common Cause: Our Upland Commons Local Area Group*:** 14 December 2021 – Mary Alford

*Notes available.

If any Council Member wishes to receive copies of any notes, please email office@dartmoorcommoners.org.uk

10. Pony Matters

The Chairman reported that Council will be represented at a forthcoming meeting hosted by Defra Equine ID on disease management within Semi-Wild Equines, which has been prompted by the ongoing strangles outbreak on Dartmoor. A date has yet to be confirmed.

He also advised that Defra Equine ID have yet to launch their consultation on Improvements to Equine ID & Traceability in England.

11. Update from Dartmoor Livestock Protection Officer

Karla McKechnie read out her report, a copy of which is attached (appendix B).

It was reported that Karla & Council have been approached by Dartmoor Forest Parish Council to be part of a steering group set up to progress their 'Vision Zero' initiative to reduce road traffic accidents on the B3212 road between Peek Hill & Princetown. An initial meeting has yet to be held.

12. Date of Next Meeting

The next meeting of the Council will be held on **TUESDAY** 8 March 2022 at 7:30pm at Two Bridges Hotel, Princetown.

The Chairman thanked those in the public gallery for attending & declared the meeting closed.

A motion to go into a closed session was then proposed by the Chairman. The outcome of these discussions is recorded in the confidential section of the meeting minutes, available to Council Members only.

Signed: *Philip French*

Date: *08 March 2022*



DARTMOOR COMMONERS' COUNCIL

DETAILS OF FORTHCOMING ELECTIONS 2022

The following members of the Commoners' Council will have served their term as at 30 June 2022 & shall be eligible for re-appointment, unless they choose not to stand again or other nominations are put forward, in which case there shall be an election.

COUNCILLORS DUE FOR ELECTION

<u>QUARTER & DATE</u>	<u>MORE THAN 10 LUs</u>	<u>LESS THAN 10 LUs</u>
NORTH	Mr Crispin Alford Mr Michael Reddaway	Filled
SOUTH	Mr Phil Cleave Mrs Ann Willcocks	Vacant
EAST	Mr Layland Branfield Mr Gordon Mortimore	Filled
WEST	Mr Phil Abel Mrs Mary Alford	Filled

All commoners nominated, nominating or voting, must have paid their contributions for the current financial year. No contributions will be accepted at the election meetings.

Appendix A

LIVESTOCK PROTECTION OFFICER KARLA McKECHNIE
REPORT TO COMMONERS' COUNCIL
7th February 2022

RTA's

So far this year there have been 7 traffic accidents involving livestock, 4 sheep and 3 ponies. We are in the worst weeks because of the lack of daylight hours and poor weather conditions. The police have been out with speed vans. I have supplied the police with the annual statistics for RTA's and they have posted them on social media, which caused quite a lot of controversy with some people saying that the numbers had been well exaggerated. (This is what we're up against!). At least the police accept the numbers.

Two of the DLPS speed monitors were vandalised last year, one at Sharpitor the other at Bennett's Cross. The one at Haytor has been moved to Sharpitor as we feel this is a hot spot area. One monitor has been fixed and the other has been sent away for repair.

Last year's RTA total was 117 with 89 deaths and 28 injured.

DOG ATTACKS

An horrendous start to the year with 13 dog attacks so far: 2 dogs that were on control orders re-offended and both of them were put down, the decision being made by their owners after long discussions with me.

Two big hits on farmers, one on Roborough that you may have seen about on the TV and in the Tavistock Times when 4 sheep were attacked and killed over a period of one week, and the other a farmer from Widecombe with 3 dead sheep and 32 attacked in a field with no footpath.

Last year the number of dog attacks was 108, the worst I've ever recorded.

STALLION INSPECTION

The stallion inspection day was held at Neil Cole's Princetown farm. It ran really smoothly with all 5 stallions passing. Big thanks to Neil Cole and Ida and to everyone else who helped. It worked very well with allotted time slots.

STRANGLES

A quick update. Strangles is now present at Dunnabridge Farm but no reports of the infection having spread to any other commons at the moment.

A GOOD ENDING

I was called about a sheep trapped on a 90ft ledge at Dewerstone. Dartmoor Rescue attended and said the sheep was too lively for them to handle. However, two primary school teachers who were abseiling managed to rope the sheep and lift her to safety. The farmer was there to retrieve her and took her back to the farm and he added that you wouldn't have known that she had been stuck there for over a week!

Karla McKechnie

DARTMOOR COMMONERS' COUNCIL

Minutes of the Meeting of the Dartmoor Commoners' Council held at Two Bridges Hotel, Princetown on Wednesday 1 March 2023.

Participants:

Mr P French – Chairman	Mr W Dracup	Ms T May
Mr L Branfield – Vice-Chairman	Mr K Edwards	Mr M Radmore
Mr P Abel	Mrs C Faulkner	Mr J Reddaway
Mrs M Alford	Mr G Hill	Mr J Shears
Mr R Ashford	Mr E Humber (NFU)	Mr R Steemson
Mr P Cleave	Mr J Jordan	Mr T Stratton
Mr A Coaker	Mr R Leigh	Mrs P Warren
Mr J Cooper	Mrs K Little	Mrs A Webber
Mr P Cottington		Mrs A Willcocks
Mrs S Sloman	Mrs K McKechnie (DLPO)	Miss L Talbot

1. Chairman's Introduction

The Chairman welcomed everyone to the meeting.

He reported that the **Dartmoor Test & Trial** has begun with the work addressing two strands: Developing a Payment by Results approach & the governance required for this approach to be successful on common land. The Test & Trial will be overseen by a partnership: Dartmoor National Park Authority (DNPA) will provide the administrative structure & secretariat & work will be undertaken by the Countryside & Community Research Institute (CCRI), University of Gloucestershire & led by Prof. Janet Dwyer.

An open meeting will be held at Two Bridges Hotel, Princetown on Tuesday 14 March 2023 starting at 7.30pm. This is an opportunity for anyone from the farming & landowning community to meet some of the team, to learn about the Project & to clarify how they might contribute.

2. Apologies for Absence

Received from Mr P Heard.

3. Confirmation of Minutes

The minutes of the last Council Meeting had been circulated to all Council Members requesting that any comments be made in advance of tonight's meeting. No comments were received. Members were advised of two updates to the minutes: the DNPA Byelaw review has been paused & the Environmental Improvement Plan 2023 document has been published, following the Environment Act 2021: Environmental Targets consultation, & is available on the Gov.UK website. The minutes of the Meeting held 25 January 2023 were then confirmed & signed.

4. Matters outstanding from previous meetings:

4.1 Pigs on Brent Moor

The Chairman declared his conflict of interest & the Vice-Chairman reported that the pigs have not been seen on the common since the last Council meeting. However, Council has received a reply letter from the owner of the pigs, who also owns part of the common, advising that they may turn pigs out again this summer. It was agreed that Council must make its position clear & set out the requirements, under the Dartmoor Commons Act 1985, that must be adhered to. A further letter will be sent inviting the owner to meet with a small group of Council Members ahead of any pigs being returned to the common.

The Chairman returned to the Chair.

5. Correspondence Received

A list of correspondence received had been circulated to all Council Members who may request copies if required.

6. Matters brought forward at the discretion of the chair:

6.1 Natural England

The Chairman advised that Council had been made aware of a letter sent from Natural England (NE) to those Local Commoners' Associations seeking an extension to their agri-environment agreement. The letter outlines the principles which will underpin NE's approach to supporting an agreement extension & includes a focus on summer mixed grazing with a presumption that at least 50% of agreed livestock units comprise of cattle &/or ponies over this period. The Chairman informed Council Members that he had already written to NE expressing a number of concerns over the implications of the letter content & requesting some clarification ahead of tonight's meeting. He reported that NE will provide each common with individual stocking rates informed by current habitat & site condition, alongside a target stocking calendar to be reached by year 5 of any extension that is offered by the RPA. The emphasis will be on grazing for cattle & sheep but with recognition that some low level winter grazing with ponies could be accommodated within the stocking calendars that are developed. Any pony grazing would need to come into the overall recommended rates & would not be exempt from the calculation. NE considers the winter grazing season to be 1 November to 30 April.

South Dartmoor SSSI

The Chairman reported that the public inquiry appeal against the Refusal of Consent Notice has been withdrawn by the appellant & NE has requested that all stock be removed from the site by 3 March 2023 or enforcement options will be considered.

The Chairman advised that letters had already been sent to NE (David Slater, Regional Director, South West) & all Dartmoor MPs drawing their attention to what Council considers to be totally unreasonable actions by NE. The letters set out the serious potential damage such actions could have to Dartmoor & requested help to facilitate engagement with relevant parties to find a workable solution.

Following a discussion, it was acknowledged that commoners know the land & should be permitted to experiment with grazing levels. The increase in 'wild' land i.e. that untamed by livestock is a fire risk. The actions of NE have serious implications & all Council Members & Local Commoners Associations are encouraged to write to their MPs.

6.2 Recreational Night Time Events

Concerns were raised regarding the number of night time events being held on Dartmoor. It is understood that the Recreation Events Policy does not support night events yet numbers seem to be increasing. Council Members were reminded of the importance of responding to planned recreational event consultations with any concerns. DNPA representatives agreed to feedback concerns to their Recreation Strategy Development Office & Council will follow this up with a letter.

7. Financial Estimates 2023/2024

At the last Council Meeting, a shortfall was reported for the estimated budget. Members agreed to the principle of raising dues payable by those registered on Council's Register subject to further discussions regarding the amount, once some facts & figures had been considered:

- The Chairman advised that the dues were last increased in 2010, 13 years ago. Prior to that, increases were every 5 years at a ratio of 1:6; a 1p per livestock unit increase in the non-grazier rate results in a 6p per livestock unit increase in the grazier rate, generating approximately an extra £4k. If dues had continued to rise in line with previous years (i.e. every 5 years) they would have risen twice by 1p/6p each time & the minimum spend would have risen from £5.00 to £6.50. This would have generated approximately an additional £10k since 2010.
- In response to a question raised, the Chairman confirmed that the budget shortfall is due mainly to legal costs being incurred by Council on two main issues; one regarding the validity of grazing rights being exercised by virtue of a farm business tenancy agreement & the other being an internal grievance. The Chairman recognised the difficulty faced by Members in having to explain to commoners the reasons behind any increase in dues. He explained that due to the nature of the solicitor's letters Council has received regarding these issues, the services of legal professionals were necessary. The questioner acknowledged this but highlighted that the money could be better spent e.g. paying for ecologists to help Council address the more serious matters that are affecting all commoners on Dartmoor.
- It was mentioned that Council could potentially face further legal challenges as it continues the exercise to check the entries on its 'live' Register & verify a commoner's right to claim common rights by virtue of ownership or tenancy. The Chairman reminded Council that Members had previously unanimously agreed that anomalies on Council's Register must be addressed. He advised that Council has made endless efforts in all cases where anomalies have been identified to sort matters without legal intervention.
- A question was raised over the level of dues paid by those with agisted rights & owner's rights. The Chairman reported that these types of right to graze are complex but he gave an undertaking that the contributions requested will be reviewed & recommendations brought to Council for ratification in time for any amendment to take effect at the same time as any increase in dues from registered commoners.
- In line with the Dartmoor Commons Act 1985, any increase in dues for registered commoners has to be agreed by 1 March in the financial year preceding the increase.

- To get back in line with previous rises then fees would need to rise again with effect from 1 July 2025.

A proposal was made by Ann Willcocks & seconded by Anton Coaker to raise dues payable to 14p per livestock unit for non-graziers, 84p per livestock unit for graziers & raise the minimum spend to £6.50

The motion was carried to raise the dues with effect from 1 July 2023 with 20 Members voting in favour, 4 against & 2 abstentions.

In line with the Dartmoor Commons Act 1985, copies of this resolution & of the financial estimates agreed by Council will be sent to each commoner whose name is recorded in Council's Register with invoices for the financial year ending 30 June 2024.

8. News Article: Spring 2023

Anton Coaker has offered to put a piece together on the situation with Natural England & forward to the group assigned to drafting the news articles. Other suggested topics include lambing & the impact of night-time events on Dartmoor.

9. Reports from Members representing Council at meetings:

- **Dartmoor Commons Owners Association:** 18 Jan – Philip French

*Notes available. If any Council Member wishes to receive copies of any notes, please email office@dartmoorcommoners.org.uk

10. Update from Dartmoor National Park Authority

Rob Steemson reported that:

- 56 people had completed the **commoner's fire training**. Anyone else is welcome to do so & Tracy May will send further details to the office for circulation. A discussion was had about the value of the training & whether it could be valid for a longer term.

Several Council Members requested replacement signs e.g., no cycling as many have been damaged &/or removed.

A point was made that, according to the wild camping map on DNPA website, camping on areas of common land owned by DNPA are not permitted. DNPA representatives advised that this is currently being considered.

11. TB Control Plans for 2023

It was reported that the Cattle Graziers' Packs for 2023 have been circulated to all Local Commoners' Association secretaries to apply for a licence, as part of the Dartmoor TB Control Plan that reduces the number of TB movement tests required by TB Regulations.

3. Date of Next Meeting

The next meeting of the Council will be held on Wednesday 19 April 2023 at 7:30pm at Two Bridges Hotel, Princetown.

The Chairman thanked those in the public gallery for attending & declared the meeting closed.

A motion to go into a closed session was then proposed by the Chairman. The outcome of these discussions is recorded in the confidential section of the meeting minutes, available to Council Members only.

Signed: *Philip French*

Date: *19 April 2023*

DARTMOOR COMMONERS' COUNCIL

Minutes of the Meeting of the Dartmoor Commoners' Council held at Two Bridges Hotel, Princetown on Wednesday 24 January 2024.

Participants:

Mr P French – Chairman	Mr J Cooper	Ms T May
Mr L Branfield – Vice-Chairman	Mr W Dracup	Mr M Radmore
Mr P Abel	Mr K Edwards	Mr J Reddaway
Mrs M Alford	Mrs C Faulkner	Mr J Shears
Mr R Ashford	Mr P Heard	Mr T Stratton
Mr P Cleave	Mr J Jordan	Mrs P Warren
Mr A Coaker	Mr S Lee	Mrs A Willcocks.
	Mrs K Little	
Mrs S Sloman	Mrs K McKechnie (DLPO)	Miss L Talbot

Open Meeting

The biannual opportunity for members of the public to address Council prior to the start of the meeting was offered by the Chairman.

Tony Whitehead referenced the Independent Review of Protected Site Management on Dartmoor & asked a number of questions on how Council intends to act on the recommendations made.

Guy Shrubsole asked if Council would be more effective if it were to become a public body & be subject to the public sector general biodiversity duty under the Environment Act 2021.

Joe Hess drew Council's attention to what he believes are flaws in Council's governance & administration, in particular with regards to maintaining the 'live' register. He mentioned the recent formal grievances that Council has had to deal with. He reiterated his request for a face-to-face meeting with the Chairman to discuss the matters on which he is instructed to act & asked that Council undertake a thorough review into the manner in which the registers are maintained & the policy under which grievances are handled.

The Chairman thanked everyone for their addresses. He advised that Council will give appropriate written responses in due course.

1. Chairman's Introduction

The chairman welcomed everyone to the meeting.

2. Apologies for Absence

Received from Mr G Hill, Mr R Leigh & Mrs A Webber.

3. Confirmation of Minutes

The minutes of the last Council Meeting had been circulated to all Council Members requesting that comments be made in advance in order that they can be dealt with ahead of the meeting. On the night, a request was made that names be attributed to a number of allegations made at the last meeting. The Chairman felt this was not necessary as the

minutes reflected what was said. Following a vote, the request was rejected & the Minutes of the meeting held 18 October 2023 were confirmed & signed with no changes.

Members are asked to raise any points to the Secretary in the timeframe stipulated when draft minutes are circulated.

4. Matters outstanding from previous meetings:

4.1 Dartmoor Wide Animal Marks Book – Tracy May

Tracy May gave an update on this initiative, which is being funded by a FiPL grant & the Forest of Dartmoor Commoners' Association. The books will be printed in quarters & each grazier with an entry in the book will be provided with a copy. To ensure accuracy, each grazier will be sent a copy of their page to check prior to publication. As part of the information being sent out with this year's invoices, graziers have been given information on how to opt out. However, due to GDPR, anyone who opts out will not receive a copy.

5. Correspondence Received

5.1 Response from Dr Peter Beale

Dr Peter Beale has declined the offer to become a co-opted member. He has offered to help Council in any way he can but without having to attend the regular Council Meetings.

A list of correspondence received had been circulated to all Council Members with copies emailed to some Members upon request.

Questions are invited on all aspects of the correspondence list but nothing is raised.

6. Matters brought forward at the discretion of the Chair

6.1 Natural England Stop Notice: Unit 61 of South Dartmoor SSSI

Natural England has written to Council advising that an appeal has been lodged with the Secretary of State over the Refused Consent to graze this area. The appeal will be dealt with by a Hearing & Council has been given the opportunity to make comments.

A request is made that all correspondence on this matter be circulated to Council Members who are invited to submit any comments to the Secretary in order that a response can be drafted on behalf of Council.

7. Reports from Members representing Council at meetings:

- **Our Upland Commons Partnership:** 6 Dec 2023 – Philip French
- **Dartmoor Commons Owners Association:** 10 Jan 2024 – Philip French
- **Dartmoor Test & Trials*:** 16 Jan 2024 – Philip French

The Chairman advised that a round-up meeting on Test & Trials is being held on 19th February 2024 in Postbridge.

*Notes available. If any Council Member wishes to receive copies of any notes, please email office@dartmoorcommoners.org.uk

8. Dartmoor Review: Independent Review of Protected Site Management on Dartmoor

The Chairman reported that an informal meeting for Council Members had been arranged for 6th February to discuss how Council will respond to the Review. He advised that David Fursdon has asked for the response to be proactive & indicated being negative may mean missing an opportunity & the whole process being taken out of

commoners' hands. The Chairman offered his apologies to any members of the public who had come to hear this discussed further tonight. He explained that he felt it was important to dedicate a separate meeting to this matter to allow Council Members to openly discuss their views. Council members are encouraged to read the report in advance of the meeting & to take time to digest the report so that Council can come up with a coordinated response.

He also reported that he has already asked Council Members Kate Little & Will Dracup to lead on reviewing Council's Standing Orders, Declaration of Interest reporting & introducing a Code of Conduct.

9. Public Safety with Cows – Anton Coaker

Members of Council have been working on a risk assessment paper for cattle graziers, which can be used to show due process to mitigate risks to the public from cattle. If a member of the public was involved in an incident with cattle, cattle graziers could show what they have done to try & reduce the likelihood of it happening. The document, which was circulated to all Council Members ahead of the meeting, consists of advice for cattle graziers, an annual checklist to have on file & an advisory document for the public.

A proposal that Council adopt the Cattle Risk Assessment Document was made John Shears, seconded by Russell Ashford & supported by all Council Members apart from 1 abstention.

The information will be sent to all Local Commoners' Association Secretaries with the TB Control Plans/Cattle Grazier Packs for 2024 for onward circulation to cattle graziers & also feature on Council's website. It was further suggested that it be sent to DNPA for use.

The Chairman thanked Anton Coaker & the Group tasked with producing this document.

10. Update from Dartmoor Livestock Protection Officer

Karla McKechnie read out her report, a copy of which is attached (Appendix A).

11. Financial Estimates for 2024/2025

Details of financial estimates were sent to Council Members in advance of the meeting with no questions raised. A projected deficit of just under £5.5k was reported & the following points were noted:

- Operating costs & in particular, utilities have increased significantly
- The office administrator's hours & associated employers' national insurance contributions, are a guestimate as they work on an ad-hoc basis for specific pieces of work, which is currently undertaking the checking of rights on Council's Register of Commoners.
- An amount of £4k for solicitor's fees/legal advice has been included but hopefully, this expense will not be incurred.
- Honorariums need to be reviewed. They have been at the current level since 2018.
- The Commoners' Council net revenue for 2024/2025 is very much an estimate based on the Register as it currently stands. This figure constantly fluctuates depending on the number of registrations & will decrease or increase accordingly.
- When Council agreed to increase the dues with effect from the financial year commencing 1 July 2023, it was also mentioned that, to get back in line with previous rises, fees would need to rise again with effect from 1 July 2025.

The financial estimates for 2024/2025 were formally approved by all Council Members.

Copies of the audited accounts for the year ending 30 June 2023 are available from the Secretary upon request.

12. Dartmoor Commoners' Council Elections 2024

Initial details of which councillors are due for election were sent out with the agenda (see Appendix B). These details have also been sent out to all registered commoners with this year's invoices. Nominations can be received up to 7 days before the election dates & further details will be circulated in due course. This year's Elections are likely to be held during the first three weeks of June 2024.

13. Date of Next Meeting

The next meeting of Council will be held on Wednesday 13 March 2024 at 7.30pm at the Two Bridges Hotel, Princetown.

The Chairman declared the public meeting closed & proposed a motion to go into a closed session. The outcome of these discussions is recorded in the confidential section of the meeting minutes, available to Council Members only.

Signed: *Philip French*

Date: *13 March 2024*

LIVESTOCK PROTECTION OFFICER
REPORT TO COMMONERS' COUNCIL
24 January 2024

A quick round-up of last year's stats:

Dog attacks

95 - another really high year. Please can you report all dog incidents to me so I can crime reference with the police. Lambing is fast approaching & PC Jules Fry is really keen to get some new ideas & messages out there.

RTAs

161 animals involved in road traffic collisions.
126 of those were either killed or dispatched.
27 ponies killed/11 survived
84 sheep killed/20 survived
15 cows killed/4 survived

I was thinking it may be a good opportunity for Council to invite PC Jules Fry to a future meeting. He is the go to for rural & it may be good to familiarise yourselves with him – put a face to the name. I like him & he is very passionate about Dartmoor.

Dog attacks this year

It's been a bad start to the year for dog incidents with 11 already. One of these is being investigated as all the relevant info was obtained.

RTAs this year

There have been 5. Three of them ponies & one of these incidents was where 4 sheep were hit on the road as a result of an out of control dog chasing the flock into the road. 3 died.

Young foals

There are a handful of young foals on the moors at the moment that I am keeping an eye on. All are doing exceptionally well despite the awful weather we experienced in December. One of them was born just before Christmas Day. They are in Widecombe, Cadover, Cox Tor, Princetown & Belstone.

Social media is becoming very bad. It might be an idea to do a big publicity push to educate moor users...how to behave around cows, responsible dog ownership & keeping dog under control plus cow concerns & attacks.



DARTMOOR COMMONERS' COUNCIL

DETAILS OF FORTHCOMING ELECTIONS 2024

The following members of the Commoners' Council will have served their term as at 30 June 2024 & shall be eligible for re-appointment, unless they choose not to stand again or other nominations are put forward, in which case there shall be an election.

COUNCILLORS DUE FOR ELECTION

<u>QUARTER & DATE</u>	<u>MORE THAN 10 LUs</u>	<u>LESS THAN 10 LUs</u>
NORTH	Mr John Cooper Ms Tracy May	Mrs Kate Little
SOUTH	Mr Philip French Mr Anton Coaker	Filled
EAST	Mrs Charlotte Faulkner Mr John Jordan	Mr Ken Edwards
WEST	Mr George Hill Mr Mark Radmore	Mr Robert Leigh

All commoners nominated, nominating or voting, must have paid their contributions for the current financial year. No contributions will be accepted at the election meetings.

DARTMOOR COMMONERS' COUNCIL

Minutes of the Meeting of the Dartmoor Commoners' Council held at Two Bridges Hotel, Princetown on Wednesday 13 March 2024.

Participants:

Mr P French – Chairman	Mr J Cooper	Ms T May
Mr L Branfield – Vice-Chairman	Mr W Dracup	Mr M Radmore
Mr P Abel	Mr K Edwards	Mr J Reddaway
Mrs M Alford	Mrs C Faulkner	Mr J Shears
Mr R Ashford	Mr J Jordan	Mr T Stratton
Mr P Cleave	Mr S Lee	Mrs P Warren
Mr A Coaker	Mrs K Little	Mrs A Webber
		Mrs A Willcocks.
Mrs S Sloman	Mrs K McKechnie (DLPO)	

1. Chairman's Introduction

The chairman welcomed everyone to the meeting.

2. Apologies for Absence

Apologies received from Mr P Heard & Mr R Leigh.

3. Confirmation of Minutes

Minutes of the Council Meeting held 24 January 2024 were confirmed & signed.

A comment was raised on whether the public addresses to Council should be minuted as the opportunity is offered in advance of the formal meeting. This will be considered ahead of the AGM.

4. Matters outstanding from previous meetings:

4.1 Natural England Stop Notice: Unit 61 of South Dartmoor SSSI

Council has submitted its comments to the appeal lodged with the Secretary of State over the Refused Consent to graze this area. An acknowledgement has been received. The matter will be dealt with by a hearing, the details of which Council will be notified of in due course. The Chairman thanked Anton Coaker for his input in drafting the response.

5. Correspondence Received

A list of correspondence received had been circulated to all Council Members with copies emailed to some Members upon request.

6. Matters brought forward at the direction of the Chair

6.1 Local Commoners' Association Secretary Support Group

Ann Willcocks reported that as part of the Dartmoor Test & Trials, several meetings were held by Janet Dwyer that brought Local Commoners' Association (LCA) secretaries together to discuss their role. Those who attended found the meetings very useful. With this in mind, & following comments made in the 'Dartmoor Review', Ann Willcocks would like to see a LCA Secretary Support Group created, providing an opportunity for LCA Secretaries to be in touch with each other & to share issues, best practice & knowledge. Council Members were in favour of this initiative. The Chairman gave an undertaking

that this will be progressed & stated that any support in helping to get this up & running would be appreciated.

7. Reports from Members representing Council at meetings:

7.1 Our Upland Commons Local Area Group*: 30 January 2024 – Mary Alford

7.2 Dogs on Dartmoor Partnership Sharing: 13 February 2024 – Karla McKechnie

Comprehensive meeting involving stakeholders with different agendas: Devon Wildlife Trust are trying to deter dogs from their land due to erosion & wildlife loss; National Trust are using a number of initiatives to encourage people to visit their properties & bring dogs; Dartmoor Livestock Protection Officer trying to manage dogs on Dartmoor & highlight the penalties, prosecutions & consequences of having a dog out of control.

7.3 Dartmoor Test & Trials Project Board: 27 February 2024 – Philip French

This initiative is nearing completion & it was acknowledged that Professor Janet Dwyer has done a good job. She will submit her report to Defra by the end of March, a copy of which will be publicly available in due course.

7.4 Dartmoor MOD Working Party: 12 March 2024 – John Cooper

Dry fire training in the Cramber area has now ceased altogether. This year's ten Tors event is being held on May 11th & 12th.

*Notes available. If any Council Member wishes to receive copies of any notes, please email office@dartmoorcommoners.org.uk

8. TB Control Plans 2024

Cattle Graziers' Packs for 2024 have been circulated to all Local Commoners' Association secretaries in order that they can apply for a licence, as part of the Dartmoor TB Control Plan, that reduces the number of TB movement tests required by TB Regulations. The Advice Notes on Cattle, recently adopted by Council, one for members of the public & the other to be used by cattle graziers to show due process to mitigate risks to the public from cattle, have also been sent to Local Commoners' Association secretaries for onward circulation to cattle graziers on their common. Council's TB Working Group have their annual 'touch base' meeting with APHA later this month

9. Update from Dartmoor National Park Authority

Simon Lee reported on:

Ranger Team Update - Fred Hutt to fill Sector Ranger position starting on 2 April. He will cover the same sector as Rob Taylor used to have. Fred has extensive knowledge of countryside management & will be a real asset to the team. New assistant Ranger, Sam LeBailly, is settling in well with the team & has already helped to address some of the backlog in PRoW work in the Northern sectors.

Dogs - On the 2nd & 3rd of March, the Ranger Team hosted a Dogs on Dartmoor weekend to coincide with the start of the lambing & bird nesting season. They worked in partnership with the Police, Karla & the National Trust to focus all available resources over the weekend to engage with dog owners, rewarding good behaviour where it was witnessed but importantly challenging inappropriate behaviour where found. Simon is being interviewed by Radio Devon over the next couple of days to reinforce the Dogs on Lead message that went out with DNPA's recent press release.

FiPL - Rachel Cooper has recently joined the FiPL team as an additional advisor to build in extra capacity to deliver more projects over the coming year. The FiPL team are planning to host drop-in events in May for anyone interested in learning more about the scheme & how they can apply for project funding.

Concerns were raised again on the numbers being permitted to partake in some **recreational events**, in particular cycling & there was a call to cap the numbers on certain types of events. There were also concerns that the procedures set out in the Recreational Events Policy were not being followed as some common owners were not aware of forthcoming events. Simon offered to take this up with the Recreation Team at DNPA.

10. Date of Next Meeting

The next meeting of Council will be held on Wednesday 1 May 2024 at 7.30pm at the Two Bridges Hotel, Princetown.

The Chairman declared the public meeting closed & proposed a motion to go into a closed session. The outcome of these discussions is recorded in the confidential section of the meeting minutes, available to Council Members only.

Signed: *Philip French*

Date: *1 May 2024*

DARTMOOR COMMONERS' COUNCIL

Minutes of the Meeting of the Dartmoor Commoners' Council held at Two Bridges Hotel, Princetown on Wednesday 1 May 2024.

Participants:

Mr P French – Chairman	Mr J Cooper	Mr J Reddaway
Mr L Branfield – Vice-Chairman	Mr W Dracup	Mr J Shears
Mr P Abel	Mr K Edwards	Mr T Stratton
Mrs M Alford	Mr J Jordan	Mrs P Warren
Mr R Ashford	Mr S Lee	Mrs A Webber
Mr P Cleave	Mr R Leigh	Mrs A Willcocks.
Mr A Coaker	Mrs K Little	
Mrs S Sloman	Mrs K McKechnie (DLPO)	

1. Chairman's Introduction

The chairman welcomed everyone to the meeting.

2. Apologies for Absence

Received from Mrs C Faulkner, Mr P Heard, Mr E Humber & Ms T May.

3. Confirmation of Minutes

Minutes of the Council Meeting held 13 March 2024 were confirmed & signed.

4. Matters outstanding from previous meetings

None

5. Correspondence Received

A list of correspondence received had been circulated to all Council Members with copies emailed to some Members upon request.

6. Matters brought forward at the direction of the Chair

6.1 Personnel Matters

The secretary reported that she would be taking annual leave from 15-25 May 2024 & the office would be closed.

Council Members were advised that the arrangement with Laura Talbot as office administrator had now formally ended. The Chairman thanked Laura for her time with Council & wished her well going forward.

7. Meetings with Council Representation:

None attended since the last Council Meeting

8. Council's TB Working Group – Report to Council

Anton Coaker reported on the Group's annual meeting with APHA, held at the end of March. Discussions included the timeliness of APHA relaying clear test results following an outbreak, communications with commoners, flexibility with the 6 monthly interval tests & the 10 Mile rule. APHA will look at procedures & liaise with their TB Advisory Group. Concerns were also raised that alpacas & llamas are being used commercially on Dartmoor & crossing common land grazed by cattle. However, APHA advised that there

is no requirement for these animals to be tested for TB. It was also suggested that TB in deer is being under reported & this needs bringing to the forefront.

It was agreed that Council's TB Working Group continue to engage with APHA on all of these matters & a procedural problem that has recently been identified when a cattle grazer does not carry out all of their TB testing on one day. The Working Group will also take up the NFU TB Team's offer to meet & discuss advice & guidance on any TB matters & to lobby for intended TB outcomes.

9. Update from Dartmoor Livestock Protection Officer

Karla McKechnie reported on:

Sheep – there have been occurrences of louping ill & scab. Lambing is underway & with the awful spring weather some ewes & lambs haven't managed so well. There have been lambing difficulties with some big lambs being born & cases of Shmallenberg in lambs have been reported.

Ponies - Foaling has been challenging the last couple weeks with badly presented foals, deformed foals & mares dying giving birth. However, ponies are looking well. There are a number of unmarked ponies on the Clearbrook side of Roborough Down & a large bunch of unmarked ponies between Dousland & Princetown, which need to be dealt with. Russell Ashford requested that Council continues to address the unmarked ponies on the commons.

Dog Attacks – 45 have been reported to date, which is extremely high considering it's been winter. Karla has been out on the moors with the Police & DNPA patrolling and engaging with the public. DNPA have been handing free dog leads & asking the public to keep dogs on leads around livestock. Karla hopes to have an update on the DNPA dog byelaw soon. Please continue to report any dog incidents to Karla.

Road Traffic Accidents - 22 reported to date which is the lowest it's been for some years. DLPS have funded 1100 reflective collars for the cattle & ponies. Karla has delivered nearly 400 cattle collars in the last month, so it will be good to see the cattle that graze near the busy roads wearing them. If any pony keepers would like some collars please let Karla know before the autumn drifts.

10. Dartmoor Commoners' Council Elections – June 2024

The Election Meeting dates are as follows:

- **North Quarter: Tuesday 11 June at Belstone Village Hall**
- **South Quarter: Wednesday 12 June at South Brent Village Hall**
- **East Quarter: Thursday 13 June at Manaton Parish Hall**
- **West Quarter: Monday 17 June at Princetown Community Centre**

The administration of the election procedures will be overseen by the secretary,

Elections will be a ballot of those attending the Election Meeting in person. Postal votes, telephone votes & proxy votes **WILL NOT** be accepted.

11. Date of Next Meeting

The next meeting of Council will be held on Wednesday 19 June 2024 at 7.30pm at the Two Bridges Hotel, Princetown.

The Chairman declared the public meeting closed & proposed a motion to go into a closed session. The outcome of these discussions is recorded in the confidential section of the meeting minutes, available to Council Members only.

Signed: *Philip French*

Date: *19 June 2024*

DARTMOOR COMMONERS' COUNCIL

Minutes of the Meeting of the Dartmoor Commoners' Council held at Two Bridges Hotel, Princetown on Wednesday 19 June 2024.

Participants:

Mr P French – Chairman	Mr J Cooper	Ms T May
Mr L Branfield – Vice-Chairman	Mr W Dracup	Mr M Radmore
Mr P Abel	Mr K Edwards	Mr J Reddaway
Mrs M Alford	Mrs C Faulkner	Mr J Shears
Mr R Ashford	Mr P Heard	Mr T Stratton
Mr P Cleave	Mr J Jordan	Mrs P Warren
Mr A Coaker	Mr R Leigh	Mrs A Willcocks.
	Mrs K Little	
Mrs S Sloman	Mrs K McKechnie (DLPO)	

1. Chairman's Introduction

The chairman welcomed everyone to the meeting.

2. Apologies for Absence

Received from Mr S Lee & Mrs A Webber.

3. Confirmation of Minutes

Minutes of the Council Meeting held 1 May 2024 were confirmed & signed.

4. Matters outstanding from previous meetings

4.1 Council's TB Working Group: Update on engagement with APHA & NFU TB Team

The Group has yet to take up the NFU TB Team's offer to meet. Anton Coaker is in contact with APHA regarding the 6 monthly interval tests & will seek clarity on post breakdown testing periods.

5. Correspondence Received

A list of correspondence received had been circulated to all Council Members with copies emailed to some Members upon request.

6. Matters brought forward at the direction of the Chair

None

7. Meetings with Council Representation:

7.1 Land Management Working Group: 8 & 22 May – Tracy May

Set up by Defra to support the Home Office to scope out a Wildfire Strategy & Action Plan. There will be about 6 meetings held every 2 weeks, although the next meeting will not take place until after the General Elections.

This Group is not to be confused with the Land Use Management Group (LUMG) which is due to be established following the Independent 'Fursdon' Review.

7.2 Dartmoor Commons Owners Association: 15 May – Philip French

7.3 Our Upland Commons Local Area Group*: 20 May – Mary Alford

*Notes available. If any Council Member wishes to receive copies of any notes, please email office@dartmoorcommoners.org.uk

8. **Dartmoor Commoners' Council Election Results for 2024**

The following commoners have recently been appointed to represent the Commoners grazing 10 or more livestock units:

North: Mr John Cooper & Ms Tracy May

South: Mr Anton Coaker & Mr James French

East: Mrs Charlotte Faulkner & Mr Robert Jordan

West: Mr Neil Cole & Mr Mark Radmore

The following commoners have recently been appointed to represent the Commoners grazing less than 10 livestock units:

North: Mrs Kate Little

East: Mr Ken Edwards

West: Mr Robert Leigh

The newly elected Members will take office with effect from July 2024. They will be formally welcomed on to Council at the AGM when those Members retiring will formally step down. All of the above-mentioned shall serve until 30th June 2028.

A point was raised on advertising costs for the elections, which this year cost approx. £2230 & questions asked on how effective this is in this day & age. However, Council's Act states that notice is given by newspaper advertisement. It was agreed that Council's election procedures will be reviewed.

9. **Update from Dartmoor National Park Authority**

Apologies were received from Simon Lee. Will Dracup reported the responses from the Recreational Team at DNPA to previous concerns raised by Council on the numbers being permitted to partake in some **recreational events** & that procedures, as set out in the Recreational Events Policy, were not being followed as some common owners were not aware of forthcoming events:

- The Recreation Team work with event organisers to limit numbers participating in events where there is likely to be negative impacts. However, the Team cannot stop activities as this is only a notification process.
- The Recreation Team do not have the powers to cap numbers, only to advise & to not support if event organisers don't follow their advice.
- Be reassured that all events notified are passed through the established system.
- The Recreation Team has reiterated the need for feedback after problematic events. This gives them the evidence to deal with repetitive problematic events.
- The Recreation Team has offered to meet with a couple of Commoners if they would like to be involved in improving or reviewing the current system.

Council Members agreed that it would be a good idea to meet with the Recreational Team at DNPA to discuss not just recreational events but also how best to get the message across that cycling across common land is not permitted.

10. **Review of structure & operation of Dartmoor Commoners' Council**

The Independent (Fursdon) Review recommended that the current structure & operation of Council should be reviewed to identify ways of reinforcing its effectiveness. In its

response to the Review, Council acknowledged that it cannot continue in its current format & committed to conducting its own internal review. Following which, a document on potential options to reinforce Council's effectiveness had been redrafted after an internal meeting held with Council Members on 8 May 2024. It incorporated all of the recommendations put forward & was circulated to Council Members ahead of tonight's meeting with a request that Members familiarise themselves with the proposals & contact the office with any queries in advance.

The Chairman proposed that Council accepts the document en bloc & that the proposed new, internal way of working be implemented at the AGM. Following a discussion & an agreement that the document would be reviewed periodically & at least 12 monthly, a vote by ballot was held.

The motion was carried with 17 Members voting in favour, 4 against with 1 abstention.

The Chairman reminded Members that a draft Code of Conduct & a revised set of Standing Orders had been circulated which require any comments to be put in writing to the office by 30 June 2024. Both of these documents will be presented for potential approval at the AGM.

11. Date of Next Meeting

The next meeting of Council will be the Annual General Meeting to be held on Wednesday 31 July 2024 at 7.30pm at the Two Bridges Hotel, Princetown.

The Chairman declared the public meeting closed & proposed a motion to go into a closed session. The outcome of these discussions is recorded in the confidential section of the meeting minutes, available to Council Members only.

Signed: *Philip French*

Date: *31st July 2024*

Judicial Review

Acknowledgment of Service

This Acknowledgment of Service is filed on behalf of

Name

Dartmoor Commoners' Council

who is the

Defendant

Interested party

Name and address of person to be served

Name

Wild Justice

Address

Building and street

c/o Ricardo Gama of Leigh Day

Second line of address

Panagram, 27 Goswell Road

Town or city

London

County (optional)

Postcode

E | C | 1 | M | 7 | A | J

Name of court

High Court of Justice
Administrative Court

Claim number

AC-2024-LON-002896

Name of claimant (including any reference)

Wild Justice

Name of defendant

Dartmoor Commoners' Council

Interested parties

Section 1

Tick the appropriate box

- I intend to contest all of the claim
– **complete sections 2, 3, 4 and 6**
- I intend to contest part of the claim
– **complete sections 2, 3, 4 and 6**
- I do not intend to contest the claim
– **complete section 6**
- The defendant (interested party) is a court or tribunal and intends to make a submission
– **complete sections 2, 3 and 6**
- The defendant (interested party) is a court or tribunal and does not intend to make a submission
– **complete sections 2 and 6**
- The applicant has indicated that this is a claim to which the Aarhus Convention applies
– **complete sections 5 and 6**
- The Defendant asks the Court to consider whether the outcome for the claimant would have been substantially different if the conduct complained of had not occurred (see s.31(3C) of the Senior Courts Act 1981)
– **A summary of the grounds for that request must be set out in/accompany this Acknowledgment of Service**

Note: If the application seeks to judicially review the decision of a court or tribunal, the court or tribunal need only provide the Administrative Court with as much evidence as it can about the decision to help the Administrative Court perform its judicial function.

Section 2

2.1 Insert the name and address of any person you consider should be added as an interested party.

Note 2.1: If you consider there is more than one interested party, set out their details on a separate sheet, marking that sheet so that it is clear it relates to this part of the Acknowledgment of Service.

Name

Organisation

Address

Building and street

Second line of address

Town or city

County (optional)

Postcode

--	--	--	--	--	--	--	--

Phone number

Email (if you have one)

Reference, if known

Section 3

Summary of grounds for contesting the claim. If you are contesting only part of the claim, set out which part before you give your grounds for contesting it. If you are a court or tribunal filing a submission, please indicate that this is the case.

Note 3: See Practice Direction 54A at paragraphs 6.1 – 6.2. Use separate sheets if you need more space; mark the sheets so that it is clear they relate to this section of the Acknowledgment of Service.

Please see attached Summary Grounds of Resistance.

Section 4

4.1. Give details of any directions you want the court to make.

The Court is respectfully invited to:

1. refuse permission to apply for judicial review; and
2. order the Claimant to pay Dartmoor Commoners' Council's costs for the preparation of this Acknowledgement of Service.

Note 4: If you wish to make any interlocutory application now, set out the application and the reasons and/or evidence relied on in support of it in this Section. Use separate sheets if you need more space; mark the sheets so that it is clear they relate to this section of the Acknowledgment of Service.

If you are seeking a direction that this matter be heard at an Administrative Court venue other than that at which this claim was issued, you should complete, lodge and serve on all other parties form **N464** with this acknowledgment of service.

If, after this Acknowledgment of Service has been filed, you wish to make an interlocutory application, use form **N244**.

Section 5

Response to the claimant's contention that the claim is an Aarhus claim

5.1 Do you dispute that the claim is an Aarhus Convention claim?

Yes. Set out your reasons in the box below.

No

5.2 Do you wish the court to vary or remove the costs limits under CPR45.43(2)?

Yes. Set out your reasons in the box below.

No


Section 6

Statement of truth

I understand that proceedings for contempt of court may be brought against a person who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

- I believe** that the facts stated in this form are true.
- The defendant** believes that the facts stated in this form are true. **I am authorised** by the defendant to sign this statement.
- The interested party** believes the facts stated in this form are true. **I am authorised** by the interested party to sign this statement.

Signature



- Defendant
- Defendant's legal representative (as defined by CPR 2.3(1))
- Interested party
- Interested party's legal representative (as defined by CPR 2.3(1))
- Litigation friend

Date

Day	Month	Year
2 3	0 9	2 0 2 4

Full name

Danielle Marie Spalding

If legal representative, state name and firm

Foot Anstey LLP

If signing on behalf of firm or company give position or office held

Principal Director

Give an address to which notices about this case can be sent to you

Name

Danielle Spalding

Organisation

Foot Anstey LLP

Address

Building and street

2 Glass Wharf

Second line of address

Town or city

Bristol

County (optional)

Postcode

B | S | 2 | 0 | E | L |

If applicable

Phone number

0117 915 4626

DX number

Email

danielle.spalding@footanstey.com

Reference number

5003842.1

If you have instructed counsel, please give their name address and contact details below.

Name

Matthew Fraser & Edward Arash Abedian of Landmark Chambers

Address

Building and street

180 Fleet Street

Second line of address

Town or city

London

County (optional)

Postcode

E | C | 4 | A | 2 | H | G

If applicable

Phone number

DX number

Your reference

Email

Completed forms, together with a copy, should be filed at the Administrative Court Office (court address, listed below), at which this claim was issued within 21 days of service of the claim upon you, and further copies should be served on the Claimant(s), any other Defendant(s) and any interested parties within 7 days of filing with the Court. See CPR 54.8.

Administrative Court addresses

Administrative Court in London

Administrative Court Office, Room C315, Royal Courts of Justice, Strand, London, WC2A 2LL.

Administrative Court in Birmingham

Administrative Court Office, Birmingham Civil Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS.

Administrative Court in Wales

Administrative Court Office, Cardiff Civil Justice Centre, 2 Park Street, Cardiff, CF10 1ET.

Administrative Court in Leeds

Administrative Court Office, Leeds Combined Court Centre, 1 Oxford Row, Leeds, LS1 3BG.

Administrative Court in Manchester

Administrative Court Office, Manchester Civil Justice Centre, 1 Bridge Street West, Manchester, M3 3FX.

IN THE HIGH COURT OF JUSTICE

AC-2024-LON-002896

KING'S BENCH DIVISION

ADMINISTRATIVE COURT

IN THE MATTER OF A CLAIM FOR JUDICIAL REVIEW

BETWEEN:

THE KING (on the application of WILD JUSTICE)

Claimant

-and-

DARTMOOR COMMONERS' COUNCIL

Defendant

DEFENDANT'S SUMMARY GROUNDS OF RESISTANCE

References: [CB/x/y] for Core Claim Bundle, tab x, page y; [SB/x/y] for Supplementary Bundle, tab x, page y; [SFG/x] for Claimant's Statement of Facts and Grounds, para. x; [WSMA/x] for the Witness Statement of Mark Avery, para. x; [DCC/x] for the Exhibits to the Witness Statement of Danielle Spalding, page x.

Introduction

1. The Claimant challenges the "ongoing failure" by the Defendant ("DCC") to act lawfully in relation to its duties under the Dartmoor Commons Act 1985 ("the 1985 Act") and other legislation, by failing "lawfully to regulate livestock numbers on Dartmoor's common lands" [SFG/1].
2. Although there are six grounds advanced, the central claim by the Claimant is that "overgrazing of livestock on Dartmoor is causing considerable ecological harm", and that DCC is acting unlawfully in failing to issue "limitation notices" in respect of livestock numbers pursuant to regulations made under the 1985 Act.
3. To respond to this claim and assist the Court, notwithstanding that these are intended to be "summary" grounds of resistance, it is necessary for DCC to go into some detail as to the background and legal framework concerning the management of livestock grazing on Dartmoor. This issue has recently been the subject of a comprehensive and independent review by a panel of experts chaired by David Fursdon ("the Fursdon Review"), which was commissioned by the Department for Environment, Food and Rural Affairs ("DEFRA"). On 13 December 2023, the panel's report was published ("the

Fursdon Report”) [CB/19/144]. The Government’s response to the Fursdon Report was published on 11 April 2024 (“**the DEFRA Response**”) [CB/20/180]. Detailed references to both documents will be provided below.

4. As DCC will explain, there is no recommendation in the Fursdon Report, or action in the DEFRA Response, for DCC to take a greater role in grazing management, including by issuing limitation notices. Instead, the outcome of the Fursdon Review, and the proposed actions which are to be taken by all stakeholders pursuant to the DEFRA Response, is to try and address the future of Dartmoor in a balanced, holistic and collaborative way, reflecting the broad range of different interests concerned. This claim for judicial review amounts to a fundamental disagreement with that approach. Despite taking issue with the Fursdon Review and the DEFRA Response, the Claimant’s claim of ineffective grazing management of Dartmoor is brought solely against DCC, as opposed to challenging DEFRA, in relation to the adequacy of their proposed actions in the DEFRA Response, and more specifically Natural England (“NE”) who, as the Fursdon Report explains, control livestock grazing numbers on protected sites in Dartmoor (such sites being the concern of this claim – see e.g. para. 47 of the Claimant’s pre-action letter [CB/4/84]).
5. For the reasons set out below, the Court is asked to refuse permission on all six grounds of claim.

Background

Common land on Dartmoor

6. “Common land” is land owned by one or more persons over which another person is entitled to exercise “rights of common” in common with others. Rights of common can include the right to graze.
7. 36,000ha out of the total area of Dartmoor National Park (95,000ha) is registered common land, comprising 92 separate registered commons. Most of the commons have no physical boundaries so, without shepherding, animals can stray freely between them. There are 54 commons owners on Dartmoor, the largest of which is the Duchy of Cornwall. Other owners include private individuals and families, the Dartmoor National Park Authority, the Ministry of Defence, NE, the National Trust, other non-governmental organisations, and water and mining companies. There are about 850 registered commoners, of whom it is estimated less than 20% are active graziers.

8. The commoners of most commons or groups of commons on Dartmoor have formed management associations (Local Commoners' Associations) which are grouped in the historic north, south, east and west "quarters" of Dartmoor.

DCC and the 1985 Act

9. DCC was established by the 1985 Act (see section 3(1)). The 1985 Act's purpose is set out in its Introductory Text in the following terms (emphasis added):

"An Act to constitute the Dartmoor Commoners' Council **for the maintenance of and the promotion of proper standards of livestock husbandry on the commons in and about the Dartmoor National Park**; to regulate public access to the commons; to confer powers on that Council and on the county council of Devon with reference to those commons; and for connected and other purposes."

10. Section 3(1) of the 1985 Act provides that DCC must consist of between 26-28 members, with each quarter electing five commoners to represent them. One of the five elected commoners must be a "small grazier" with a right to graze less than 10 livestock units on the commons. The other members include two appointees from the Dartmoor National Park Authority, a representative of the Duchy of Cornwall, two representatives of commons landowners, and an independent veterinary surgeon [CB/29/257].
11. Section 4 of the 1985 Act sets out the functions of DCC. Sections 4(1) and (2) provide [CB/29/258]:

"(1) Subject to this Act, it shall be the duty of the Commoners' Council to take such steps as appear to them to be necessary and reasonably practicable for the maintenance of the commons and the promotion of proper standards of livestock husbandry thereon (including the assessment of the number of animals which can properly be depastured on the commons from time to time); and in discharging that duty the Commoners' Council shall have regard to the conservation and enhancement of the natural beauty of the commons and its use as a place of resort and recreation for enjoyment by the public.

(2) Subject to subsection (3) below, the Commoners' Council may—

- (a) protect the commons and render assistance to any commoner in the maintenance of his rights of common;
- (b) ...
- (c) ...
- (d) enter into agreements with any owner of land within any of the areas edged pink on the plan referred to in section 2 of this Act for the management by the Commoners' Council of grazing thereon;

and, subject to the provisions of this Act, the Commoner's Council shall have power to do anything (whether or not involving the expenditure, setting aside, borrowing, investment or lending of money, or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions."

12. Section 4(6)(a) further provides that:

“(6)(a) The Commoners’ Council may, without prejudice to the continued exercise by them of their functions under this Act and on such terms and conditions as they think fit, arrange for the discharge of any of their functions (other than functions relating to the regulation and control of the finance of the Commoners’ Council and the making of regulations under section 5 of this Act) by a commoners’ association, association of commoners’ associations or any local authority within the meaning of the Act of 1972 whose area includes any part of the commons”.

13. Section 5 contains the duty to make regulations. For present purposes, section 5(1) states that [CB/29/260]:

“(1) For the purpose of fulfilling their functions under section 4 of this Act, the Commoners’ Council:

(a) shall make regulations for the following purposes:

(i) to ensure the good husbandry and maintenance of the health of all animals depastured on the commons;

(ii) to ensure that the commons are not overstocked and, for that purpose, may fix or provide for the fixing of the number of animal or animals of any description which from time to time may be depastured on the commons by virtue of a right of common or of any other right or privilege;

...”

14. Section 5(b)(i) also provides that DCC may make such other regulations, relating to the whole or any part of the commons, “as it thinks fit” for any of the following purposes:

“(i) to exclude from grazing on the commons, for such periods as appear reasonably necessary, all animals or animals of a particular description where the Commoners’ Council are satisfied that these exclusions are necessary for the maintenance of the commons or for the promotion of proper standards of livestock husbandry;

(ii) generally to regulate the exercise of rights of common of all kinds and rights or privileges having a similar subject matter as rights of common (including rights of grazing deriving otherwise from rights of common) over the commons and to prohibit the use of the commons for similar purposes by persons purporting to exercise rights in excess of their entitlement or by persons not entitled to such rights either as commoners or otherwise.”

15. DCC therefore made ‘The Regulations as Prepared Under Section 5 of the Dartmoor Commons Act 1985’ (“**the DCC Regulations**”), which were confirmed by the Secretary of State for the Environment on 3 August 1990. The DCC Regulations are stated to be “for the maintenance of the lands falling within the definition of the commons contained in [section 2 of the 1985 Act] and for the promotion of proper standards of livestock husbandry thereon” [CB/30/265].

16. The DCC Regulations cover a range of matters and contain a range of powers.
17. Regulation 8 provides for a power to issue a prohibition notice which prohibits stocking on all the commons, or such specified units, for a designated period [CB/30/266]:

“8. No person shall depasture a prohibited animal on the commons or a designated unit thereof during a prohibited period. A prohibited period shall be a period designated by the Council in accordance with advice concerning animal health or other matter or because of any outbreak of infection or of notifiable disease or in response to such locally prevailing circumstances as cause the Council to consider that the commons should not be stocked during that period and may apply either to all the commons or to such unit or units thereof as the Council decides. A prohibited animal may be an animal of any description as the Council may decide.

When the Council has determined that a prohibited period is necessary and the appropriate extent thereof the Secretary of the Council shall send to the Secretary of all those Commoners’ Associations whose commons are affected by the prohibition notice of the prohibited period and the prohibited animal or animals together with the reason for the prohibition and shall advertise notice of such prohibition in a newspaper circulating in the area of such commons.”

18. Regulation 9 provides DCC with the power to issue limitation notices to restrict livestock numbers depastured on the commons (emphasis added) [CB/30/266]:

“9. No person shall depasture on any unit of the commons animals in excess of the number contained in a limitation Notice under Section 5(2)(a) of the Act. **Whenever the Council shall consider it expedient** to prescribe the maximum number of any description of animal that any person may from time to time depasture on any unit of the commons (whether by reason of the quality of the pasturage or otherwise) the Secretary of the Council shall send a Limitation Notice in accordance with Section 5(2)(a) of the Act to the owner or tenant of that land and to each person registered in accordance with Section 7 of the Act as having rights to depasture on that unit of the commons specifying the common land so restricted, the period of the limitation and the maximum number and description of animals that an owner, tenant or other person may depasture on that unit of the commons for that duration and shall send a copy of each such notice to the Secretary of the Commoners’ Association to whose area the restriction applies.”

19. Regulation 14 provides [CB/30/267]:

“14. No person having a right registered under the Commons Registrations Act 1965 or right or privilege having a similar subject matter as rights of common (including rights of grazing deriving otherwise than from rights of common) shall do anything or cause or allow any act to be done which in the opinion of the Council shall cause the natural beauty of the commons to be damaged.”

20. Regulation 15 makes further provision to allow DCC to control grazing numbers, this time by issuing a Code of Guidance to prevent damage to the commons [CB/30/267]:

“15. The Council may require the removal of stock from the commons or from a particular part of the commons where stock are being grazed or fed in contravention of any Code of Guidance approved by the Council or in order to prevent or limit damage to the commons.”

21. Regulations 16-19 restrict the burning of moorland [CB/30/267-8].
22. Regulation 21 creates an offence of contravening any of the regulations [CB/30/268].
23. When appropriate, DCC exercises the powers given to it by the DCC Regulations. For example:
 - (1) DCC issues prohibition notices under reg. 8 prohibiting sheep from specified commons for prescribed periods (the most recent notice was issued in September 2023 – see [DCC/11]);
 - (2) In minutes dated 5 June 1996, DCC wrote to a commoner under reg. 14 to prevent actions causing damage to the natural beauty of the commons [DCC/5], and similarly in minutes dated 3 February 1999 DCC agreed to apply reg. 14 to secure the removal of stock in response to complaints from commoners [DCC/7];
 - (3) Pursuant to reg. 15, DCC has approved a Code of Guidance “for Prevention of Winter Damage to the Commons of Dartmoor” (the most recent version was approved on 5 April 1995 [DCC/10]) and takes enforcement action against breaches of it;
 - (4) DCC prosecutes illegal grazing, i.e. grazing on a common without rights of common, or in excess of a person’s rights of common;
 - (5) As minutes of DCC meetings attest, over the years of its existence DCC has created and operated a number of working parties to deal with specific issues such as winter feeding, fencing, grazing, and overstocking.
24. The Fursdon Report at para. 10.7 summarises the role of DCC [CB/19/162]:

“The Dartmoor Commoners’ Council was created under the Dartmoor Commons Act 1985 as the outcome of a long-running debate over access, livestock welfare and abuses of commons rights on Dartmoor. The Council is a body elected and funded by the commoners. Its primary function is to maintain the commons within the National Park and to promote proper standards of livestock husbandry on them. In discharging this function, it must have regard for the ‘conservation and enhancement’ of the natural beauty of the commons including their SSSIs (to be construed as including the conservation of its flora, fauna, ecological, archaeological and geological and physiographical features). It must also protect the commons and render (give) assistance to any commoner in the maintenance of his rights of common. It also has powers to make regulations to prevent the overstocking of the commons. To discharge its functions the Council maintains two registers: the first of

grazing rights held by those who do not intend to turn animals out to graze and the second a ‘live register’ of rights held by active graziers.”¹

Agri-environmental schemes

25. The agricultural history of Dartmoor is summarised in section 6 of the Fursdon Report [CB/19/152]. Grazing of livestock on Dartmoor has occurred for centuries. To tackle the adverse environmental impacts arising from increased stocking on Dartmoor’s commons following the UK’s accession to the European Economic Community in the 1980s and the operation of the Common Agricultural Policy, farmers were offered the opportunity to participate in what are known as agri-environmental schemes (“**A-E Schemes**”). These schemes essentially involve farmers receiving payments in return for environmentally positive actions, including stock reductions. In 1994, Dartmoor was designated as an Environmentally Sensitive Area (“**ESA**”) pursuant to the Agriculture Act 1986. Most Dartmoor commons entered into ESA agreements (a form of A-E Scheme), agreeing to significant stocking reductions.
26. In 2005, the Environmental Stewardship Regulations made under the Environment Act 1995 replaced ESAs with a new generation of EU-funded Environmental Stewardship agreements. More complex and high environmental value areas, including Dartmoor, became the subject of “Higher Level Stewardship” (“**HLS**”) agreements. These agreements included the negotiation of further significant reductions in stocking rates. These HLS agreements, which are administered with advice from NE by the Rural Payments Agency (“**RPA**”), an executive agency of DEFRA, are still in place today – see below.

Statutory protection of environmentally valuable sites

SSSIs

27. The notification of Sites of Special Scientific Interest (“**SSSIs**”) was introduced by the National Parks and Access to the Countryside Act 1949 and is now governed by sections 28 to 28S of the Wildlife and Countryside Act 1981 (“**the 1981 Act**”). It is the role and responsibility of NE to designate and manage SSSIs. SSSIs can be notified for their biological or geological interest. Dartmoor has both, with sites containing a wealth of

¹ Note: the final sentence is factually incorrect, as DCC maintains a single register recording both graziers and non-graziers. This is not a material error, and the paragraph is otherwise accurate.

nationally and internationally important features, including blanket bogs, wet and dry heaths, valley mires and old sessile oak woodlands. When land is notified as a SSSI, NE must specify the features which make the land of special interest, and the “operations” NE believes are likely to damage those features (see section 28(4) of the 1981 Act).

28. Section 28E of the 1981 Act provides that the owner or occupier of any land included in a SSSI shall not carry out, or cause or permit to be carried out, any operation specified in the notification unless that operation is carried out with NE’s written consent. In this way, it is the responsibility of NE to manage SSSIs (see Fursdon Report, para. 8.3 and NE’s letter to the Claimant’s solicitors on 16 September 2024 (“NE Letter”) [DCC/12-15]). As the Fursdon Report notes at para. 8.4, the 1981 Act allows for directly negotiated management agreements on SSSIs, but “NE has used agri-environment agreements instead” [CB/19/157]. As the NE Letter explains, part of NE’s “multi-faceted role in relation to the Dartmoor Commons” is to provide advice to the RPA (who administer the A-E schemes) “on the appropriate management regime to achieve favourable condition. Stock numbers form part of this advice alongside other management measures”.
29. It should also be noted that, under section 4(5) of the 1985 Act, DCC must give notice to (what is now) NE before undertaking on SSSI land, or giving permission to others to undertake on SSSI land, any “operation” which in NE’s opinion might be detrimental to the special features. Section 4(5) states as follows:
- “(a) In the performance of their functions under this Act, the Commoners’ Council shall not less than 28 days before undertaking, or giving permission to others to undertake, any relevant operation, give notice in writing to the Nature Conservancy Council of that intention; and in this subsection “relevant operation” means an operation which in the opinion of the Nature Conservancy Council might be detrimental to the flora, fauna or geological or physiographical features of any land to which this subsection applies and in relation to which written notice of that opinion has previously been given by the Nature Conservancy Council to the Commoners’ Council.
- (b) This subsection applies to any land notified as an area of special scientific interest under section 28 of the Wildlife and Countryside Act.”
30. Both NE and DCC are “section 28G authorities”. Section 28G of the 1981 Act provides:
- “(1) An authority to which this section applies (referred to in this section and in sections 28H and 28I as “a section 28G authority”) shall have the duty set out in subsection (2) in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.

(2) The duty is to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest."

31. NE has wide powers of enforcement. In addition to it being a criminal offence to contravene section 28E of the 1981 Act (e.g. by grazing without NE's consent), NE can serve those responsible for carrying out a specified activity with a "stop notice" pursuant to section 46 of the Regulatory Enforcement and Sanctions Act 2008 and Schedule 3 to the Environmental Civil Sanctions (England) Order 2010. Non-compliance with a stop notice is also a criminal offence.
32. There are many SSSIs on Dartmoor. The six major SSSIs in Dartmoor are named North Dartmoor, South Dartmoor, East Dartmoor, Dendles Wood, Tor Royal Bog and Wistman's Wood. For all six of these SSSIs, "grazing and changes in the grazing regime (including type of stock, intensity or seasonal pattern of grazing) and cessation of grazing" is an item included in the list of "operations likely to damage the special interest" [CB/22/235-240]. Accordingly, such operations require NE's consent. As explained in the Fursdon Report at para. 8.8, consent is granted routinely as part of entering into an A-E Scheme [CB/19/157-158].
33. The condition of SSSIs is periodically assessed against the following categories (Fursdon Report, para. 8.9 [CB/19/158]):
 - (1) Favourable – habitats and features are in a healthy state and are being conserved by appropriate management;
 - (2) Unfavourable (recovering condition) – if current management measures are sustained the site will recover over time;
 - (3) Unfavourable (no change) or unfavourable (declining condition) – special features are not being conserved or are being lost, so without appropriate management the site will never reach a favourable or recovering condition;
 - (4) Part destroyed or destroyed – there has been fundamental damage, where special features have been permanently lost and favourable condition cannot be achieved.
34. NE's current condition assessment for the six major SSSIs indicates that 6.62% is "favourable", 47.42% is "unfavourable – recovering", 38.18% is "unfavourable – no

change”, and 7.77% is “unfavourable – declining”. As the Fursdon Report notes at para. 4.2, the actual condition of Dartmoor’s SSSIs at the point they were designated is unknown, and there are very incomplete monitoring records for these sites [CB/19/150].

35. The Fursdon Report records at para. 8.13 that “the 2023 Defra Environment Improvement Plan set the target to bring 75% of English protected sites into favourable condition by 2042, with interim targets for 2028” [CB/19/159].
36. 62% of all common land in Dartmoor is SSSI. As the Fursdon Report explains at para. 9.2, in practice NE’s role extends beyond the land which is formally notified as SSSI [CB/19/160]:

“Many commons are only part designated, but the absence of any physical barriers between SSSI and non- SSSI areas means there is significant potential for sites to be damaged by stock straying from adjacent areas. This is considered explicitly by NE when carrying out a HRA under the SAC [see below]. For this reason, the influence of the protected site designation extends significantly beyond the area of the sites themselves.”

37. The six major SSSIs in Dartmoor are only partly on common land. The Dendles Wood, Tor Royal Bog and Wistman’s Wood SSSIs are outside of common land entirely, as are some units of land in the North Dartmoor, South Dartmoor and East Dartmoor SSSIs.
38. NE is active in using its powers of enforcement to address any perceived decline in protected habitats on Dartmoor: see for example the letter from NE to DCC dated 31 July 2023 giving advance warning of a “stop notice” on unit 61 of the South Dartmoor SSSI to prohibit grazing from 1 November 2023 to 30 April 2024 [DCC/29]. The letter enclosed draft management recommendations, which NE considered should be carried out on the specified unit to further the conservation and enhancement of the SSSI features. Notably, this letter was only sent to DCC after it had been alerted to the threat of enforcement action by the commoner concerned, and DCC subsequently contacted NE. DCC responded by letter dated 22 September 2023 objecting to the proposed stop notice, expressing a concern that the restrictions would “lead to a huge increase in uneaten vegetation and attendant fire risks” [DCC/16-17]. By email dated 6 October 2023, NE clarified that a stop notice would only be issued if stock is not removed over the winter period. NE referred to their possession of “recent and detailed evidence” regarding the need for a reduction in winter grazing pressure in unit 61 [DCC/18]. DCC understands that on this occasion a stop notice was not issued.

SACs

39. Pursuant to the EU Habitats Directive 1992, implemented in England by the Conservation of Habitats and Species Regulations 2017 (“**the Habitats Regs**”), sites can be designated as Special Areas of Conservation (“**SACs**”). The Dartmoor SAC covers an area of 23,158ha, which overlaps with the six main SSSIs referred to above.
40. The Habitats Regs recognise that some SACs will overlap with SSSIs. Regulation 9, read with reg. 5, provides that NE must exercise their functions under sections 28 to 28S of the 1981 Act (which concern SSSIs) so as to secure compliance with the requirements of the Habitats Directive. Regulation 24 requires NE to assess the implications for SACs of proposals for consent under section 28E of the 1981 Act:

“(1) Where it appears to the appropriate nature conservation body that a notice of a proposal under section 28E(1)(a) of the Wildlife and Countryside Act 1981 relates to an operation which is or forms part of a plan or project which— (a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, it must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

(2) In the light of the conclusions of the assessment, it may give consent for the operation only after having ascertained that the plan or project will not adversely affect the integrity of the site.”

41. The requirements under reg. 24 mirror those in Part 6 of the Habitats Regulations for consents, permissions and plans generally, and derive from art. 6(3) and (4) of the EU Habitats Directive.
42. Regulation 24 is reflected in the NE Letter [**DCC/14**], and in para. 8.11 of the Fursdon Report [**CB/19/158**], which states:

“Broadly, when an SSSI is also situated in a SAC, any operation requiring SSSI consent as an ORNEC will also require NE to carry out a HRA. This arguably offers a higher level of protection than SSSI designation alone, as decisions are made on a precautionary principle (so NE must not grant permission for an action unless it can be shown positively not to have negative consequences).”

Current A-E Scheme negotiations and the trigger for the Fursdon Review

43. Since Brexit, DEFRA has been in the process of replacing the Environmental Stewardship schemes with new Environmental Land Management (“**ELM**”) schemes. However, DEFRA has decided to offer existing English HLS scheme members the

opportunity to extend their agreements for up to 5 years beyond the expiry of their current terms. As the Fursdon Report explains at paras. 3.3-3.5 [CB/19/149]:

“3.3 To ensure value for money and comply with statutory obligations, extensions can only be offered where Natural England (NE) has confirmed that the agreements concerned are achieving their own objectives. On Dartmoor, NE concluded that the very low proportion of SSSI units in favourable condition meant it could not give those assurances and discharge its statutory responsibilities without the commons concerned agreeing to make further significant management changes and reductions in stocking rates.

3.4 While it is unclear whether and how clearly NE had already flagged its concerns over the condition of many SSSI units on Dartmoor, these changes undoubtedly came as a shock to the commoners. They responded angrily, with pre-existing tensions spilling over and their whole future participation in Agri- Environment Schemes being thrown into question. This culminated in local MPs sponsoring a Westminster Hall debate on the issue. Defra ministers asked David Fursdon to carry out this review.

3.5 To give the review time to report, the 5-year extension period was split into 2 separate periods of 1 year and 4 years (1 plus 4). For most agreements, limited or no change would be required in the first year of the extension. The recommendations from the review would inform the changes requested for the remaining 4 years. Commoners would then decide whether to continue in agreement, without affecting the payments received for the first year.”

The Fursdon Report

Criticisms of NE's evidence base

44. As part of its review, the Fursdon Review panel examined NE's evidence base for the condition of SSSI units on Dartmoor. The Report finds that:

- (1) There was a “lack of hard, empirical data in many areas”, which in some cases was “unreliable”. Consequently, the panel had been “unable to determine the actual condition of SSSIs at the point they were designated” and had “a very incomplete set of monitoring records for these sites”. It had “proved impossible to establish, with any degree of certainty, the total number and breakdown of livestock grazing on the moor at any time”: para. 4.2 [CB/19/150].
- (2) Similarly, the causal relationships and the impact of external environmental factors (such as climate changes, pests and diseases) had yet to be fully understood and were difficult to quantify: paras 4.3 and 4.4 [CB/19/150].
- (3) Although NE had the target of carrying out condition assessments at least every 6 years, some assessments had been outstanding for more than 10 years: para. 8.9 [CB/19/150]. Some of the SSSI notifications were now more than 50 years old, and

there was no consistent record of condition monitoring over time: para. 9.3 [CB/19/160]. It was therefore “impossible to know whether SSSIs were in favourable condition when they were notified, if they have achieved that status at any time since and what the trend is now”. The panel suspected that the poor condition of SSSIs was “a chronic problem rather than something that has arisen recently”: para. 16.3 [CB/19/170].

- (4) NE’s condition monitoring was only intended to be a “rapid appraisal tool”, and as such “further experimentation is needed to arrive at a fully informed view of what is happening to Dartmoor’s SSSIs”: para 16.5 [CB/19/171]. In particular “more scientific monitoring and evaluation is required to assess their condition and to understand the influences impacting on them”: para. 19.3 [CB/19/173].

Environmental challenges and grazing practices

45. The Claimant notes the general comment in the Fursdon Report at para. 12.1 that “Dartmoor is not in a good state”. The Report sets out a wide range of environmental challenges on Dartmoor, including (i) poor hydrology resulting from peat cutting, (ii) reduced access and increased erosion, (iii) the dominance of *Molinia* (a deciduous purple moor grass which is out-competing other vegetation and causing deterioration of the landscape), (iv) encroachment of gorse and bracken, and (v) the poor condition of heather and dwarf shrub communities (in respect of which “localised over-grazing by sheep plays a part”): paras 12.2-12.8 [CB/19/164-5].
46. In terms of identifying a solution, at para. 12.9 the Report records NE’s faith in “managing and often reducing grazing stock numbers” and belief that “in many cases further, radical reductions in stocking numbers will be required to bring Dartmoor’s protected sites back into favourable condition”. Paras. 12.10 and 12.11 set out the differences of view between NE and commoners [CB/19/165]:

“12.10 NE local advisers have explained to us that, when the first round of HLS agreements was negotiated on Dartmoor, they would have liked to set lower stocking rates to conform with NE guidance on HLS moorland grazing rates. However, they were constrained from doing so by the need to secure take-up of agreements.

12.11 The commoners are adamant that the possible need for further stocking rate cuts was not explained to them when the HLS agreements were entered into. They view NE’s current stance as reinforcing an already failed strategy. They have no confidence that it will achieve the required objective of bringing SSSI into favourable condition and bringing about the recovery of heather and dwarf shrubs. It also threatens to reduce stock numbers below the

critical point where graziers will expend the time and resources needed to maintain animals out on the commons.”

47. The Report warns at para 12.12-12.13 that “changing the balance of grazing and removing sheep may itself have unpredictable consequences in reducing Dartmoor’s biodiversity”. Further, “the reduction in stocking rates is causing significant livestock management problems for graziers” as the tendency to stray increases where livestock are not held in place by other animals already grazing in those areas [CB/19/165].
48. At para. 12.16 the Report concludes that (emphasis added) [CB/19/166]:

“12.16 The problem with vegetation management on Dartmoor is as much one of under-grazing as much of over-grazing and there is a danger of a vicious cycle developing. The area of Molinia, gorse and scrub expand because there are insufficient cattle and ponies to graze and trample them at critical times of the year (late spring and early summer). This encourages animals, and particularly sheep, to search-out heather and dwarf shrubs to graze in preference to the unpalatable Molinia. This in turn prompts further reductions in stocking rates as a policy response to the loss of heather. The Molinia expands again, triggering yet further stocking reductions. So, the cycle continues.”

Economic challenges

49. The Report notes that farming in Dartmoor is “economically extremely marginal”. DEFRA figures show that average annual direct agricultural income for Less-Favourable Area grazing livestock farms in England fell from £200 for 2021/2022 to a net loss of £10,400 in 2022/2023. In Dartmoor specifically, independent survey figures showed an annual net loss of £348.90 per cow and £16.90 per ewe: paras 7.6-7.7 [CB/19/156]. The Report considers that these figures illustrate why Dartmoor farmers are concerned and uncertain about their future, and the introduction of ELM schemes poses “real challenges” for farm businesses in Less-Favourable Areas: para. 14.2 [CB/19/168].

Attitudes

50. The Report also comments on the need to improve the relationship between the various key stakeholders involved in the management of Dartmoor. At para. 11.4 the Report noted that Dartmoor is “a highly contested landscape” and that some submissions were accompanied by “a degree of finger-pointing and blame attachment” which “together with some of the very high-profile public debate, is unhelpful”. The Report urged that “with a degree of compromise and willingness to adapt, it should be possible to achieve an outcome that all can live with” [CB/19/163].
51. Paragraphs 11.5-11.6 set out a constructive and forward-looking approach:

“11.5 While some consider Dartmoor to be a wilderness, it is actually the product of thousands of years of men and women exercising their skill and ingenuity to make a livelihood from its apparently inhospitable environment. We believe that this active management will continue in the future. We do not believe that a positive outcome could be achieved by walking away and leaving Dartmoor to its own devices.

11.6 It is also not possible to turn the clock back to an era in the past and recreate what Dartmoor looked like then. We face a specific set of threats and opportunities at this point in time. To identify and deliver the combination of public and private goods that Dartmoor is capable of producing in the twenty first century we need:

- careful data collection combined with good scientific analysis
- skilful management
- the building of genuine partnerships”

52. Paragraph 14.4 notes that “NE’s demand for some reductions in stocking rates as a pre-condition for the extension of HLS agreements has struck a particularly raw nerve”. Likewise at paras 14.5-14.6 the Report states [**CB/19/168-169**] (emphasis added):

“14.5 There is a real danger of a stand-off developing at this point with NE’s statutory powers being tested legally against the commoners’ property rights as graziers. **This would be wasteful, counter-productive and damaging.**

14.6 It should also be **un-necessary**. The submissions we have received (including from NE itself) recognise the important role that grazing should play in the management of Dartmoor. It should therefore be possible to design a scheme, or schemes, that:

- protects Dartmoor’s SSSIs and SAC
- has the support and confidence of Dartmoor’s key stakeholders
- **rewards commoners fairly for delivering a balanced package of public benefits”**

53. The Fursdon Report recognises the ability for A-E schemes to avoid that “stand-off”:

“However, there is no reason why this traditional role can’t be combined with carrying out conservation grazing and stewarding Dartmoor to a high, professional, standard. In future, A-E schemes will pay for achieving challenging environmental outcomes and providing other public benefits. Farmers everywhere are recognising that their businesses will have to alter significantly to benefit from this. Dartmoor’s farmers are no exception, but this challenge offers opportunities as well as threats.”

Other comments

54. The Fursdon Report also:

- (1) Discusses DCC at paras. 15.3-15.4, noting the inherent tension between DCC being both a democratic discussion forum and a statutory enforcement body [**CB/19/169-170**];
- (2) Recognises in section 17 that A-E schemes are “focused primarily on achieving favourable SSSI condition” and “will play an increasing role in the delivery of

government policy in the future, including on SSSI condition, and be used to deliver a wider range of public benefits” [CB/19/171]. The Report recognises the value of A-E schemes in achieving collaboration (para. 17.2) (emphasis added):

“People need to be taken into partnership and allowed to play a far more active and responsible role in agreeing what needs to be done and in monitoring outcomes. This gives them ownership and responsibility, **making them active stakeholders rather than passively following orders**. It should also be to the benefit of NE. In the long term, better outcomes can be achieved, and scarce resources used to better effect, by working through others.”

Recommendations and conclusions

55. The Report goes on to make several detailed recommendations and conclusions at paras 18.1-26.1 [CB/19/171-179]. In particular:

- (1) Dartmoor needs “a Dartmoor-wide, landscape-level, vision, supported by a clear delivery strategy”. This could be achieved through the Dartmoor National Park Authority (DNPA) Partnership Plan: paras 18.1-18.2 [CB/19/172].
- (2) Dartmoor’s governance should be reinforced by the creation of a Land Use Management Group (“LUMG”). This should be independently chaired and have both key stakeholder organisations and commoners’ representatives in the membership, including government agencies and bodies such as NE. The LUMG should develop a plan to improve SSSI condition and deliver government targets on Dartmoor. In addition to this, the LUMG would be responsible for identifying areas where Dartmoor-specific data needs to be collected, and further research and experimentation is required. The output of that process should be fed into both the development of protected site management strategies and A-E scheme prescriptions: paras 18.3-18.7 [CB/19/172].
- (3) The “absolute top priority” for Dartmoor is improving its hydrology and re-wetting its blanket bogs. The second priority should be controlling *Molinia* through a combination of active management practices, supported by specific research into Dartmoor’s habitat and control, including grazing. Restoring populations of heather and dwarf shrubs will contribute towards improving Dartmoor’s biodiversity and creating habitats; however, this would be “part of a holistic” approach”, with more research and monitoring needed to understand the full range of environmental influences at work. Reducing *Molinia* and increasing the area of palatable grass on

the moor would directly reduce the grazing pressure on heather and dwarf shrubs: paras 20.1-20.6 [CB/19/173-174].

- (4) The relationship between re-wetting, achieving protected site favourable condition, and HLS extensions (and other A-E) schemes needs to be understood, particularly the need for capital investment and the impacts on farm businesses: para. 20.2 [CB/19/174].
- (5) Dartmoor needs more cattle to carry out conservation grazing, particularly of Molinia, and A-E schemes should encourage farmers to maintain cattle herds for this purpose. Sheep are an important part of Dartmoor's hill farming system and maintaining 3 species grazing should be a key part of Dartmoor's future. A "holistic strategy" should be implemented to increase the grazeable area of the moor and reduce the amount of Molinia and gorse. This will increase the palatable area available for grazing by sheep and therefore reduce the amount of localised over-grazing of heather and dwarf shrubs: paras 23.1-23.8 [CB/19/176-178].
- (6) A 2 plus 3 (or 3 plus 2) period for HLS extensions will give sheep keepers the opportunity to demonstrate that they can shepherd their flocks to protect vulnerable heather and dwarf shrubs: para. 23.4 [CB/19/177].
- (7) Although DCC plays an invaluable role in the management of Dartmoor and must continue to do so, its current structure and operation should be reviewed to identify ways of reinforcing its effectiveness. One option would be to retain the present council to give strategic oversight, while delegating its enforcement and operational activities to a smaller group with strengthened independent input: para. 26.1 [CB/19/179].

DEFRA Response

56. The DEFRA Response published on 11 April 2024 set out the action the government is taking to implement the recommendations of the Fursdon Review. This included several short-term and longer-term priorities. In the short-term, DEFRA committed to creating the proposed LUMG to be led by an independent chair appointed by DEFRA, with responsibility for Dartmoor's governance and overseeing the recommendations relating to grazing and vegetation management. Farmers were to be supported through the extension of their existing HLS agreements and subsequent transition to the ELM

scheme, which would be agreed by the LUMG. Longer-term priorities included providing tailored advice for future A-E Schemes, as well as exploring ways to better support farmers in delivering environmental outcomes and maintaining viable upland farming communities [CB/20/186-187].

57. DEFRA agreed with the Fursdon Review “that under-grazing can be as much of a problem as over-grazing”. It also agreed that a combination of different practices – including maintaining 3 species grazing – was needed to control the overgrowth of *Molinia* and the decline of heather populations. Overall, DEFRA considered that the transition to the new ELM schemes had the potential to address many of these challenges. Farmers and commoners, therefore, needed support to move into these updated agreements as soon as possible [CB/20/189-191].
58. To sensitively manage the transition to new ELM schemes, DEFRA decided to offer a 2 plus 3-year extension arrangement for existing HLS scheme members (rather than the previous “1 plus 4” structure). As the DEFRA Response explains [CB/20/199]:

“We have created an improved ELM offer which gives the tools to implement the recommendations of the Review and allows ELM agreements to work for all parties. New agreements will take time to agree. For that reason, we agree with the Review that HLS extensions should move to a 2 plus 3-year extension arrangement.

Negotiations between parties will be conducted sensitively, to support sustainable land management alongside traditional farming practices and uphold the overall condition of protected sites.

We have written to agreement holders to set out proposals for agreeing further annual extensions to HLS agreements going up to 2025. We will work closely with agreement holders over the next period to help them prepare to apply for a new CS /SFI agreement, when the time is right for them to do so. We also want to work with agreement holders who want to agree further HLS extensions, with a plan of action and trajectory for further improvement of SSSI site condition.”

59. DEFRA also noted that “Natural England is carrying out a programme of SSSI monitoring and resurveying on Dartmoor, which will be completed by the end of 2024” [CB/20/195]. Those findings and repeat monitoring would ensure the evidence on SSSI condition was up to date and would help guide negotiations for future A-E agreements [CB/20/201].
60. With regards to the role played by DCC, DEFRA considered that although “it is for the commoners and the Dartmoor Commoners’ Council to consider how they are

constituted”, it would nonetheless work with DCC “to support any review they [DCC] think is necessary” [CB/20/202].

DCC Response

61. DCC published its response to the Fursdon Review on 13 March 2024 [DCC/19-20], confirming that it “supports the findings of the Review and looks forward to enabling a better working environment for all parties across Dartmoor”, as well as its “strong desire to create a Land Use Management Group (LUMG) to reinforce Dartmoor’s governance”.
62. The DCC Response reiterated the Fursdon Review’s recommendation for a balanced, holistic and collaborative approach to addressing Dartmoor’s future, reflecting the variety of interests involved:

“Council supports a holistic grazing strategy, utilising cattle, sheep and ponies to deliver better vegetation management that ensures stakeholders recognise the implicit value of grazing livestock as an integral part of Dartmoor common’s environmental schemes. It is accepted that NE has a statutory duty regarding SSSIs. However, Council has concerns that poor condition of SSSIs is not necessarily as a result of commoners’ actions. Council would therefore welcome opportunities to explore alternative methodologies, including the work done with the Dartmoor Test and Trial. It would be constructive if NE were obliged to consult with Dartmoor Commoners’ Council on matters relating to commons management as in the past.

Council requests a balanced approach to design a multi-functional landscape. All aspects need consideration. However, wild fire risk must be addressed immediately, with the size of areas permitted for swaling increased, and environmental scheme liabilities reconsidered, so commoners can organise managed burns effectively and without penalties. This would allow stock to return to unpalatable areas, reduce grazing pressure on the heather and dwarf shrub heath and lessen fuel load and risk of catastrophic wildfire.”
63. DCC also committed to “conduct its own internal review of its structure and operation to identify ways of reinforcing its effectiveness” as recommended by the Fursdon Review.
64. On 19 June 2024, DCC adopted a document entitled “Reinforcing Council’s Effectiveness”, which sets out DCC’s progress in their internal review [DCC/21-23]. One of the items for consideration is the setting up of specific sub-committees and working groups for the efficient carrying out of DCC’s duties and functions.
65. One such group would focus on livestock husbandry, management and issues including illegal grazing; another group would look at commons issues such as fencing; and another group would consider landscape conservation, e.g. peat restoration, swaling and engagement on LUMG matters.

Response to claim

66. Before addressing the individual grounds in turn, DCC provides an overall response to the claim given the large degree of overlap between the six grounds of challenge.
67. First, it is clear that the Claimant fundamentally disagrees with the findings of the Fursdon Report and the DEFRA Response. This is obvious from Dr Avery’s witness statement, which labels the outcome of the Review as “an ambitious idea of getting the same people round a different table”, “another talking shop” and “an inadequate response” to what he refers to as a “conflict” [WSMA/51-54].
68. This claim, however, is precisely the type of “finger-pointing” deprecated in the Fursdon Report: para. 11.4 [CB/19/163]. It runs counter to the collaborative approach and balancing of different interests which the Fursdon Review and the DEFRA Response rightly seek to foster as the only tenable solution to Dartmoor’s problems. There are good reasons for managing stocking levels through A-E schemes, one of which is the availability of compensation for farmers (which does not exist if reductions are required under limitation notices). Another is the ability for a nuanced and “holistic strategy” (Fursdon Report, para. 23.3 [CB/19/177]) overseen by NE’s advice on management, rather than the relatively blunt instrument of limitation notices. This makes farmers “active stakeholders rather than passively following orders”. Dr Avery, and this claim, presents a one-sided account of what he considers to be the challenges facing Dartmoor, focusing only on ecological interests, and ignoring other relevant factors such as the socio-economic interests of Dartmoor’s farmers. DCC also notes that Dr Avery has set out his own analysis of the role of grazing in Dartmoor’s SSSI condition at [WSMA/64-74]. No admissions are made by DCC as to (a) the correctness of his analysis, and (b) whether NE would endorse his analysis (it appears that neither Dr Avery nor the Claimant have taken steps to ask NE for their views on this analysis). The Fursdon Report and DEFRA’s Response, unlike this claim, seeks to achieve a balance which not only protects Dartmoor’s protected sites, but also has the support of key stakeholders and rewards commoners fairly given the economically marginal context in which they maintain their livelihoods [CB/19/168-169]. That is the approach which DCC supports.
69. Second, the Claimant has not established that the underlying premise of this claim is correct – i.e. that overgrazing by commoners is a major factor in the deterioration of Dartmoor’s natural environment which must be reduced by issuing limitation notices.

The Claimant presents this as an incontrovertible truth, relying on NE's evidence on the condition of commons and protected sites [SFG/25-26]. Despite the invitation provided in DCC's pre-action response, the Claimant has commenced proceedings before canvassing NE's position on the matter: paras 13.6, 16, 17 [CB/5/86]. Furthermore, the Fursdon Report identified several flaws in NE's evidence base, including that the grazing situation on Dartmoor was more complex and nuanced than suggested originally by NE. In any event, NE has committed to carrying out by the end of 2024 a condition review of protected sites to inform negotiations over A-E Schemes going forward [CB/20/201]. It would be wrong to make any assumptions about NE's views on site condition and future management prior to the conclusion of that review.

70. Third, the claim presents only a partial picture of the regulatory framework governing the management of stocking levels on Dartmoor. In particular, the claim fails to recognise the preponderant role played by NE in controlling stocking levels via three key and inextricably connected mechanisms: (1) advising on A-E agreements; (2) the consenting process under section 28E of the 1981 Act; and (3) their enforcement powers to restrict grazing activities, e.g. through a stop notice. The control of grazing levels on Dartmoor has been carefully managed by NE, rather than DCC, for many years, through A-E schemes. That control mechanism is also the focus of future management following the Fursdon Review. Limitation notices form no part of the future of management envisaged by the Fursdon Report and DEFRA's Response.
71. Moreover, pursuant to section 28E of the 1981 Act, any "change" in the grazing regime on a SSSI, including measures to decrease stocking numbers, would constitute an operation requiring NE's consent. Carrying out such an operation without NE's consent is a criminal offence. One can immediately appreciate the regulatory issue with DCC imposing a limitation notice rather than NE negotiating a stocking reduction: the notice would be requiring the commoner to commit an offence. Consent to change the grazing regime on SSSI land is in the gift of NE, not DCC. In those circumstances, it would not be "expedient" (see reg. 9 of the DCC Regulations) for DCC to issue limitation notices, because the more appropriate course is for any stock reductions to be achieved via the ongoing A-E scheme negotiations, which would include NE's consent with management advice, and compensation for the farmer.

72. Fourth, and in light of the above, the Claimant is wrong to challenge alleged over-grazing of Dartmoor through a claim against DCC rather than a claim which challenges DEFRA and NE's response to the Fursdon Review. If the logic of the claim and its underlying assumptions are correct, i.e. there is overgrazing of Dartmoor and there is an unlawful failure to remedy this problem, then it is not clear why the Claimant has not sought to challenge NE's role in regulating existing stocking levels through the consenting process and the advice they provide to the RPA under current A-E/HLS agreements, or DEFRA's decision to extend those existing agreements for a further 5 years (including by permitting existing stocking levels to continue unchanged for an interim period of 2 years (formerly 1 year) out of that 5 year period). In other words, if the Claimant is aggrieved by the direction of travel or adequacy of the Fursdon Review and the DEFRA Response, then this ought to have been the focus of any judicial review claim.
73. Tellingly, Dr Avery appears to suggest that the fact that "the Defendant in this case is hardly mentioned in the Fursdon Review" is somehow an oversight or a failure on the part of the Report's authors [WSMA/51]. Dr Avery complains that "the Fursdon Review makes it seem as though the DCC is not really a player in this conflict", given the "long discussion of the failure of commoners and NE to agree a way forward" and the "brief, almost passing, mention of the power of DCC to impose grazing restrictions". The simple explanation for this is that DCC is indeed a relatively small player – staffed by volunteers, with far more limited resources and manpower than NE and other bodies – operating in a wider framework dictated by the complex processes explained in the Fursdon Report. The Fursdon Review conducted a comprehensive review of the existing framework; it recognised explicitly DCC's functions and its power to make regulations to prevent the overstocking of the commons; and it made detailed recommendations on improving the future management of Dartmoor, none of which referred to a role for DCC to issue limitation notices.
74. Fifth, even on the invalid assumption that the claim has been correctly brought against DCC, then DCC denies any failure to comply with its statutory duties as alleged by the Claimant. In fact, DCC's full participation in the process of the Fursdon Review, and DCC's response to the Fursdon Report, is a clear example of regard being had to all the matters required by the various duties cited by the Claimant – including the 1981 Act and the Habitats Regs. DCC's Response endorses the Review and supports its recommendations. DCC's Response confirms that DCC will work in partnership with

key stakeholders going forward as part of the LUMG. Given that context, it is entirely reasonable for DCC not to consider it necessary or appropriate to issue limitation notices, which would cut across the recommendations currently being implemented by multiple stakeholders in response to the Fursdon Review.

75. Sixth, the clear focus of the claim and the Claimant’s concern is the ecological condition of Dartmoor, specifically the SSSIs (see for example para. 47 of the Claimant’s pre-action letter [CB/4/84] which requests DCC to issue limitation notices to control overstocking in SSSIs). The function and purpose of DCC, as set out in section 4 of the 1985 Act, is “for the maintenance of the commons and the promotion of proper standards of livestock husbandry”. In doing so, DCC must have regard “to the conservation and enhancement of the natural beauty of the commons and its use as a place of resort and recreation”. The regulation making power in section 5 is “to ensure the good husbandry and maintenance of the health of all animals depastured on the commons” and “to ensure that the commons is not overstocked”. None of these are specifically directed against ecological damage (the focus of this claim). This is unsurprising given that, as explained above, matters of ecological impact are for NE as the statutory nature conservation body with relevant expertise. The NE Letter is consistent with this, accepting that it is NE’s “specific role” to ensure the protection of features for which a majority of Dartmoor has been designated as SSSI or SAC, while DCC’s role on the commons is “broader” [DCC/12-15].

76. With the above in mind, DCC’s response to each of the Claimant’s grounds is as follows.

Ground 1

77. The Claimant argues that it was not sufficient for DCC to discharge the duty in section 5(1) of the 1985 Act without *actually* issuing limitation notices to reduce stocking numbers on the commons [SFG/33]. Alternatively, the Claimant argues that DCC has breached this duty by failing even to *consider* whether to issue limitation notices [SFG/34].

78. The section 5(1) duty requires DCC to make regulations for the purposes of, *inter alia*: (i) ensuring the good husbandry and maintenance of the health of animals depastured on the commons, and (ii) ensuring the commons are not overstocked. In relation to (ii) section 5(1) provides that the regulations “may” fix or provide for the fixing of the

number of animals that may be depastured on the commons. It is therefore not a strict requirement of section 5(1) that the regulations provide for the fixing of livestock numbers.

79. Regardless, the DCC Regulations – and in particular reg. 9 – achieve purposes (i) and (ii) by granting DCC an express power to issue limitation notices to restrict livestock numbers. DCC has complied fully with what is required of it under the section 5(1) duty.
80. While DCC has the power to issue a limitation notice under reg. 9, this only applies where it considers it “*expedient*” to prescribe stocking numbers. The power is therefore discretionary. For the Claimant to succeed under this ground, therefore, it must establish that DCC has acted irrationally by failing to exercise that discretion and issue limitation notices.
81. Irrationality is a high bar, and – as explained above – the Claimant has failed to establish a clear evidential basis supporting its assertion that Dartmoor is “overgrazed” or “overstocked” (assuming it is even possible to make such a generalised assertion across such a wide area of land with so many different pressures and factors at play). Notwithstanding this, it was entirely rational for DCC to have decided not to issue limitation notices in light of (1) the wider regulatory framework where grazing levels are being actively managed by NE through the consenting process, advice given on A-E schemes, and through enforcement action, (2) the absence of robust scientific evidence indicating that Dartmoor is being overgrazed, and (3) the findings of the Fursdon Report and DEFRA’s Response which have committed to improving the condition of Dartmoor through the updated A-E and ELM schemes.
82. The Claimant argues that the absence of documentation demonstrating that DCC specifically *considered* whether to issue limitation notices over the past 10 years is enough to constitute a breach of its statutory duties under sections 4 and 5 of the 1985 Act. This ignores the fact that DCC was an active participant in the Fursdon Review. The Fursdon Report refers directly to DCC’s various statutory duties under the 1985 Act and the reg. 9 power to issue limitation notices. Despite that, the Report does not recommend that DCC consider exercising that reg. 9 power. By participating in the Review, and through its subsequent Response in March 2024, DCC has engaged in substance with the contents of the Fursdon Review, including consideration of its powers and duties under the 1985 Act.

Ground 2

83. This ground adds nothing to Ground 1. The Claimant argues that DCC has also breached section 4(1) of the 1985 Act by failing to carry out an “assessment of the number of animals which can properly be depastured on the commons from time to time” [SFG/37].
84. As the Claimant acknowledges [SFG/34, 37], DCC meeting minutes demonstrate that the Council has previously considered livestock numbers at various points between 1997 and 2003 [SB/1-5/3-27]. While more recent minutes do not record such discussions, this is unsurprising given that, post-2001, livestock numbers have been controlled primarily through A-E/HLS agreements, in which DCC has little or no role – these agreements instead being negotiated between the local commoners’ associations, on behalf of their commoners, and the RPA (who DCC understands will routinely accept NE’s advice on management).
85. In any event, *The State of the Commons on Dartmoor: A Common Perspective*, a report developed by DCC members between 2019 and 2021 (but continues to be a “live” document) demonstrates that specific consideration has been given to livestock numbers and the management of livestock practices: pages 14-24 [CB/21/216-226].
86. It can be noted that the 1985 Act does not prescribe any particular form or time period for the “assessment”, or any requirement to record the results. DCC’s position is that it is part of their inherent day-to-day operations to assess the state of the commons and consider livestock levels, among other things.

Ground 3

87. The Claimant acknowledges that absence of explicit consideration of a “have regard” duty in DCC meeting minutes does not preclude that duty being substantively discharged [SFG/47].
88. In this case, DCC has complied substantively with the section 4(1) duty to “have regard to” the conservation and enhancement of the natural beauty of the commons for the following reasons:
- (1) DCC’s website explicitly refers to the Council’s functions and duties under sections 4(1), with links to online versions of the 1985 Act and the DCC Regulations [CB/24/242]. Further, the 1985 Act and the DCC Regulations are regularly

discussed within DCC, with every member is given a copy of the 1985 Act upon first becoming a member.

- (2) As reflected in the *'The State of the Commons on Dartmoor: A Common Perspective'*, DCC members are acutely aware that the Council's purpose includes overseeing the conservation and enhancement of the natural beauty of the commons: e.g. pages 11, 14 [CB/21/213, 216].
- (3) Regulation 14 of the DCC Regulations provides a wide power to DCC to prevent a person from doing anything which in the opinion of DCC shall cause the natural beauty of the commons to be damaged" – examples of where DCC has exercised its powers pursuant to reg. 14 appear in the minutes dated 5 June 1996 [DCC/3-6] and 3 February 1999 [DCC/7-9].
- (4) As part of its wide-ranging review, the Fursdon Report considered matters of conservation and enhancement of natural beauty. The Report also expressly referred to DCC's duties at para. 10.7, including [CB/19/162]:

"...the need to "have regard for the 'conservation and enhancement' of the natural beauty of the commons including their SSSIs (to be construed as including the conservation of its flora, fauna, ecological, archaeological and geological and physiographical features"

Given DCC's active participation in the Fursdon Review, and its commitment to being closely involved in the LUMG which seeks to implement many of the Review's recommendations, it is clearly aware of and complies with the requirement to give consideration to the natural beauty and conservation of the commons.

- (5) DCC has also been active in responding to a range of consultations over the past few years on a diverse set of issues, for example the "Environmental Land Management: Policy Discussion" consultation, the "Your Dartmoor: DNPA Management Plan" consultation, "Changes to the measurement (metric) used to report on the condition of SSSIs in England", "Landscape Review: call for evidence", "Nature Recovery Green Paper: Protected Sites & Species" consultation, "Environment Act 2021: environmental targets" consultation, and the "Dartmoor National Park Authority bylaws" consultation [DCC/24].

89. There has therefore been no arguable breach of this duty in section 4 of the 1985 Act.

Grounds 4 and 5

90. Under Ground 4, the Claimant relies on section 28G(2) of the WCA 1981, which requires relevant public bodies to “take reasonable steps ... to further the conservation and enhancement” of the parts of Dartmoor which are designated SSSIs [SFG/48-50].
91. For Ground 5, the Claimant suggests that DCC has breached reg. 9(3), read with reg. 6(2), of the Habitats Directive, which requires a competent authority to “take appropriate steps to avoid ... the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated” [SFG/52-55].
92. At the heart of both these grounds is the Claimant’s view that the only reasonable and appropriate step to further the purposes in section 28G(2) of the WCA 1981 and reg. 9(3) of the Habitats Regs was to issue limitation notices reducing stocking numbers on the commons. These grounds therefore involve the same considerations as those discussed in respect of Grounds 1 and 3. DCC relies on its response to those grounds, and in particular that it was entirely reasonable to have decided not to issue limitation notices given (1) the wider regulatory framework (2) the absence of robust scientific evidence indicating that Dartmoor is being overgrazed, and (3) the commitment following the Fursdon Review to improving the condition of Dartmoor through A-E and ELM schemes.
93. These grounds ignore the reality of NE dealing hand-in-hand with the 1981 Act SSSI duties and the Habitats Regs SAC duties through reg. 24 of the latter, by carrying out an appropriate assessment as part of the consenting process during the negotiation of A-E schemes. The NE Letter confirms this in clear terms: [DCC/12-14].
94. Further to the above, the 1981 Act and the Habitats Regs will be among the legislative provisions to be considered by DCC’s newly formed Landscape and Conservation Sub Committee (a working group created out of the internal review conducted following the Fursdon Report): the terms of reference are at [DCC/25-26]. This demonstrates that not only are these duties inherent considerations that permeate all of DCC’s functions, but also that a specific sub-group has been established post-Fursdon to further enhance DCC’s discharge of those duties going forward.
95. For these reasons, it is denied that there has been any arguable breach of either section 28G of the 1981 Act or reg. 9(3) of the Habitats Regs.

Ground 6

96. The Claimant alleges that DCC has unlawfully acted as a representative body for the rights of commoners, which falls outside its statutory purpose under the 1985 Act.
97. Section 4(2)(a) of the 1985 Act provides that DCC may “protect the commons and render assistance to any commoner in the maintenance of his rights of common”. It cannot be improper for DCC to exercise its functions in a way which is expressly provided for by statute.
98. In any event, the Claimant is wrong to suggest that it has somehow elevated the interests of commoners above the need to discharge its statutory duties. First, as above, this allegation wrongly presumes that DCC has failed to discharge its statutory duties by deciding not to issue limitation notices to reduce stocking numbers. Second, as demonstrated in the *‘The State of the Commons on Dartmoor: A Common Perspective’* report, DCC members understand the multi-faceted nature of the Council’s role, which includes the carrying out of its statutory functions **[CB/21/208]**:

“Under the Dartmoor Commons Act (1985), the Dartmoor Commoners’ Council was established to represent the commoners, make regulations about most matters, which concern the management of the commons and the welfare of the stock de-pastured on the commons, and to enforce the Dartmoor Commoners’ Council Regulations.”

(Footnote 2, page 6)

99. Further, the Claimant’s allegations run counter to the findings of the Fursdon Review. The Fursdon Report noted that DCC “plays an invaluable role in the management of Dartmoor and must continue to do so”. While it made recommendations on how DCC could improve its structure and operations, the Report’s recommendation was that DCC should “retain the present council to give strategic oversight and provide a forum in which commoners can debate issues of concern”, while enforcement and operational activities could be delegated to a smaller group.
100. The Fursdon Report evidently took no issue with DCC providing a forum to represent the interests of commoners, it simply found that, for practical and administrative reasons, a smaller and more agile enforcement function would make it more effective: para. 26.1 **[CB/19/179]**. As confirmed in DCC’s Response to the Fursdon Review, those recommendations are currently being implemented.
101. This ground is therefore also unarguable.

Section 31 of the Senior Courts Act 1981

102. Even if, contrary to the above, the Court finds that DCC has failed to comply with the duties cited by the Claimant, the Court is asked to refuse permission (or relief) under section 31 of the Senior Courts Act 1981, on the basis that it is highly likely that the outcome for the Claimant would not have been substantially different had the duties been complied with. For all the reasons set out above, limitation notices issued by DCC are not an appropriate course of action in the present circumstances. DCC does not accept that compliance with the cited duties leads to the outcome sought by the Claimant, namely limitation notices being issued [SFG/63].

Aarhus

103. DCC does not dispute that this is an Aarhus Convention claim for the purposes of CPR Part 46 Section IX. The cost caps in CPR 46.26(2)(b) and (3) apply.

104. DCC points out that it is a small body comprised of unpaid volunteers, with one person being employed for administrative purposes, which does not receive public funding.

Claimant's request for disclosure

105. The Claimant requests a copy of the register maintained by DCC pursuant to section 7 of the 1985 Act [SFG/66]. As the register is large and divided by common land unit areas, and not easily downloadable, a sample of one unit has been provided alongside these grounds with names and addresses of commoners redacted – see Common Land Report for Unit 57 [DCC/27-28].

106. The duty of candour as it applies to defendant public authorities requires provision of “full and accurate explanations of all the facts relevant to the issues which the Court must decide”, with what is required to discharge the duty at the substantive stage being more extensive than before permission has been granted (see *The Administrative Court Judicial Review Guide 2024*, paras 15.3.1-15.3.3). Contrary to the Claimant's suggestion, the duty of candour is not a duty of disclosure.

107. The Claimant's request for DCC to “disclose any further documentation which it holds” and to “provide an explanation ... of what steps it has taken to identify and locate material relevant to this claim” is too broad and inappropriate [SFG/67].

Conclusion

108. For all these reasons, the Court is respectfully invited to:

- (1) refuse permission to apply for judicial review; and
- (2) order the Claimant to pay DCC's costs of the preparation of its Acknowledgement of Service, as per the Statement of Costs.

**MATTHEW FRASER
EDWARD-ARASH ABEDIAN**

**Landmark Chambers
180 Fleet Street, London**

23 September 2024

On behalf of: the Defendant
 Witness: D M Spalding
 No. of witness statement: 1
 Exhibit: DMS/1
 Date: 23 September 2024
 CLAIM NO AC-2024-LON-002896

IN THE HIGH COURT OF
 JUSTICE
 KING'S BENCH DIVISION
 ADMINISTRATIVE COURT

IN THE MATTER OF A
 CLAIM FOR JUDICIAL
 REVIEW

BETWEEN:

THE KING (on the application of WILD
 JUSTICE)

Claimant

- and -

DARTMOOR COMMONERS' COUNCIL

Defendant

**FIRST WITNESS STATEMENT OF
 DANIELLE MARIE SPALDING**

I, Danielle Marie Spalding of Foot Anstey LLP, 2 Glass Wharf, Bristol BS2 0EL, state as follows:

- 1 I am a Principal Director at Foot Anstey LLP. I am duly authorised to make this witness statement on behalf of Dartmoor Commoners' Council, the Defendant in this claim for Judicial Review.
- 2 I make this witness statement in support of Dartmoor Commoners' Council response to the claim.
- 3 This statement has been prepared alongside the Defendant's Summary Grounds of Resistance and upon receipt and review of documentation received from Dartmoor Commoners' Council.
- 4 The facts and matters set out in this statement are within my own knowledge unless otherwise stated, and I believe them to be true. Where I refer to information supplied by others, the source of the information is identified; facts and matters derived from other sources are true to the best of my knowledge and belief.
- 5 There is now produced and shown to me a paginated bundle of true copy documents marked "DMS/1". All references to documents in this statement are to Exhibit DMS/1 unless otherwise stated.
- 6 On behalf of Dartmoor Commoners' Council, I have today filed at Court an Acknowledgment of Service and Summary Grounds of Resistance. The Summary Grounds of Resistance refer to several documents that are not contained within the Core Bundle or Supplementary Bundle provided by the Claimant. DMS/1 contains an index and is a paginated bundle of those further

documents provided to me by Dartmoor Commoners' Council which are referred to in the Summary Grounds of Resistance.

Statement of truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed

A handwritten signature in black ink, appearing to be 'DMA', with a long horizontal line extending to the right.

Danielle Marie Spalding

23 September 2024

On behalf of: the Defendant
Witness: D M Spalding
No. of witness statement: 1
Exhibit: DMS/1
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**IN THE MATTER OF A
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Defendant

EXHIBIT "DMS/1"

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DARTMOOR COMMONERS' COUNCIL

Minutes of a meeting of the Council held at The Village Hall, Postbridge, on Wednesday 5th June 1996 at 7.30 p.m.

Present: in the Chair Mr. J. Hodge, Mrs. M. Alford and Messrs. B.Lavis, J. Reddaway, J. French, A. Coaker, D. Powell, R. Savery, M. Retallick, J. Wilkinson, G. Hill, S. Wakeham, C. Mudge, G. Ledger, R. Halliday, R. Ashford, Dr. N. Atkinson, R. Woolcock and Mrs. J. Crick.

Apologies were received from Mesdames. R. Mudge & M. Phipps and Messrs. R. Michelmore, A. Gibson, J. Jordan, I. Mortimore, S. Reed and C. Alford.

1. **Minutes** of the last meeting held on Wednesday 5th June 1996 were confirmed and signed subject to the following amendments:-

Page 3. (h) the words "of sheep" should be added after "...voluntary summer clearance....".

Page 4 second paragraph. The following sentence should be added - "It was agreed that either the Chairman or Vice-Chairman chair the election meetings and if both are unable to act Mr. R. Savery should officiate."

Page 4, 10. the words "where it is legal to do so" should be added at the end of the paragraph.

2. **Matters arising:**

(a) **Finance.** The Secretary reported approximately £18,500 had been received for the current year.

(b) **Dartmoor Pony Support Scheme.** The Secretary reported on a meeting of the Working Party held at Bovey Tracey on the 8th May 1996. The meeting had been called because of deterioration in the condition of some of the ponies since the January inspection. Correspondence and photographs had been received from the Horses and Ponies Protection Association and the Dartmoor Livestock Protection Society. At Roborough 85% of the ponies were in poor condition and some had been put down. Concern had been expressed that the condition of some of the approved mares could bring the Support Scheme into disrepute. It was reported that in the East one Commoner had sold mares after the inspection and one had returned the foals to the mares after the inspection. This was contrary to the rules of the Scheme and the National Park agreed to write pointing out that the rules had been broken and in the latter case requesting a refund of the subsidy. In the West it was agreed that in view of the condition of the ponies payment should not be made to four Commoners and the Secretary should write explaining the reasons for this.

The Council agreed that Dr. Atkinson and Miss Proctor should draw up proposals for amendments to the Scheme which the Council could consider before possibly placing them for wider consultation.

- (c) **Walkhampton Common.**

(i) The Secretary reported that the amended undertaking had not been signed and returned to the Maristow Estate. He had been in touch with the Commoners concerned but they felt they were being penalised when there are others with stock there who have not been asked to remove them.

(ii) The Secretary reported on further correspondence concerning the leat feeding the Cottages at Merrivale and damage caused by cattle. It was reported that the leat had not always been properly maintained and it was normal practice for those who benefited from it to keep the water way clear. It was also reported that Whitchurch & Spitchwick Commoners regularly cleared out

their leats. Mrs. Alford said that in the past the occupants of Merrivale Cottages have maintained that leat but the cottages had changed hands several times in recent years and possibly the occupants had not cleaned it out. It was resolved that the Secretary should write to Mr. Knight accordingly.

(d) Controlled Burning. The Secretary reported on correspondence from the Devon Fire & rescue Service which reported a meeting when it had been agreed the information on fires be given to the Fire Officer, National Park and near neighbours which hopefully will obviate unnecessary turnouts where burning is controlled. The Chairman reported the Fire Officer had asked to attend a Council meeting early in the New Year.

(e) Roborough Down. The Secretary reported that he had served notice on the lady grazing a pony without rights at Crapstone to remove it and this had been done. He also reported that the problem with the blocked cattle grid at the entrance to Horrabridge Sewerage Works had now been put right.

(f) 1996 Elections. The Secretary reminded members that Election meetings would be held as follows:

Monday 17th June 1996	Endecott House Chagford	7.00 p.m. - 8.00 p.m.
Tuesday 18th June 1996	Tavistock Cattle Market Cafe	7.00 p.m. - 8.00 p.m.
Wednesday 19th June 1996	Okehampton Charter Hall	7.00 p.m. - 8.00 p.m.
Thursday 20th June 1996	South Brent Village Hall	7.00 p.m. - 8.00 p.m.

Nominations were required for 2 Commoners in each Quarter recorded as grazing not less than 10 livestock units and for 1 Commoner in each of the South and North Quarters registered as grazing less than 10 livestock units. He had so far received nominations for 2 Commoners each in the South and North and 1 in the West. No nominations had so far been received for the small Commoners.

(g) Duplicate Registrations and Apportionment of Rights. Mr. John Machell's Opinion had been circulated to all members and discussion took place.

Apportionment of Rights. It was agreed to adopt the Opinion that in the apportionment of a holding the rights should be allocated pro rata.

Duplication of Rights. Counsel's Opinion was that where a Commoner had the same rights on adjoining Commons these were not separate rights. On discussion it was not clear whether or not this applied to the rights on the Forest. It was decided not to adopt this Opinion but hold a meeting of the Working Party, comprising the Chairman, Vice-Chairman, Messrs. R. Michelmores, J. Jordan and G. Ledger, to discuss the Forest rights and then discuss the matter with Mr. Gash.

(h) Regulations Working Party. The Secretary reported the following recommendations.

Regulation 2. the following to be added: "All persons granting grazing under licence or any arrangement should notify the Secretary to the Council the names and addresses of the graziers and the numbers and classes of animals grazing the Common".

Regulation 3. after "agricultural tenancy" should be added "or a farm business tenancy for not less than two years."

Regulation 5. second paragraph, after sheep add "or cattle".

Regulation 6. the second paragraph should be amended to "Further, if any animal is discovered to be suffering from a notifiable, infectious or contagious disease the Council may

order the removal of that animal or animals from the Commons and/or neighbouring Commons or portions thereof and the stock must not be returned to the Common until treated to the satisfaction of the Council."

Regulations 10. an additional Regulation - "(d) All foals should be weaned by 1st January in the year following their birth or be removed from the Common with the mare."

Regulation 15. after "part of the Commons" insert "or prohibit the feeding of stock on the Common or part of the Common".

Regulation 21. The Secretary was instructed to look into the question of raising the level of fines from £40. *per day J.A.T. Abdy*

The above amendments were adopted. *agreed. Argo forward on accordance with the procedure under the Act J.A.T. Abdy*

Other matters discussed:

Surplus grazing - already covered by S. 4 - 10 of the Act.

Straying - Commoners had the right to drive back.

Variation of Breeds - very difficult to specify and decided no action to be taken.

Hefting of Stock. The question of hefted stock was discussed and it was agreed the Council should be more vigorous in enforcing Regulation 4, particularly as some stock on the Common was non moorland stock. It was agreed the subject of hefting should be on the Agenda for discussion at the next meeting.

3. Report on Matters Discussed in Committee at Last Meeting.

(a) **Pony Prosecution.** It was agreed the matter be reported on in Committee.

(b) **Bittleford Down.** the Secretary reported writing to the offender, pointing out the Council's obligations under S.4 of the Act and the contravention of Regulation 14. He also pointed out the damage had a long term effect on the grazing of others and there should be no continuation of it next winter. He had written to the National Park for their assessment of the erosion factor. A report had been received which stated that the damage had arisen because of the traditional practice of bringing stock in for feeding and stated that a reduction of the present practice was desirable and that the owner should give consideration to this next winter to improve the situation. The Secretary was instructed to write to the offender accordingly.

(c) **Dartmoor Pony Support Scheme.** Correspondence had been received by the Chairman and National Park from the Dartmoor Livestock Protection Society and the Horses and Ponies Protection Association on the condition of the ponies. Mr. Reed had reported on his inspections and as a result the Secretary had written to 8 pony keepers to remove their unthrifty ponies.

(d) **Fernworthy.** There was no information on the filling in of the track as Mr. Mortimore was not in attendance. The Chairman said he would contact Mr. Mortimore to check if the matter had been dealt with.

4. Correspondence.

(a) **Autumn Clearance - Sheep.** The Secretary reported on a letter from Okehampton Hamlets Commoners who consider November 7th to be too early to clear and say they will clear their sheep by midnight on 16th November. They also consider that each Quarter should fix their own date. It was agreed that it was too late to alter the date this year but investigations should be made with the military as to the possibility of extension of the dates for the future.

(b) **Professional Indemnity Insurance.** The Secretary reported a quote of £512.50 from the Commercial Union Assurance Company for cover of £500,000 for any one occurrence, subject to a £250 excess. It was agreed the Secretary should obtain other quotes.

(c) **English Nature.** The Secretary reported on an invitation to the Chairman and Vice-Chairman to a Nature Reserve Declaration Ceremony on 7th June 1996. Unfortunately neither was able to attend.

(d) **Shilstone Rocks Stud.** The Secretary reported the setting up of a Register of Colts for Sale.

5. **Forest Rights Working Party.** It was agreed to hold a meeting shortly, the members being the Chairman, Vice-Chairman, Messrs. J. Jordan, G. Ledger and R. Michelmore. Mr. Ledger asked to withdraw and it was agreed Mrs. M. Alford should replace him.
6. **Date of Next Meeting.** As the Audited Accounts must be produced at the first meeting (the Annual Meeting) following the end of the Council's financial year on the 30th June, it was resolved that, as usual there should be no meeting in July and that the next meeting should be on Wednesday 7th August 1996 at The Village Hall, Postbridge, subject to availability.

It was resolved that the remainder of the meeting should be held in committee and the public asked to leave.

Signed.....*J. A. Ledger*.....

Dated.....*7/8/96*.....

DARTMOOR COMMONERS' COUNCIL

Minutes of the meeting of the Council held at Two Bridges Hotel, Princetown on Wednesday 3rd February 1999 at 7.30p.m.

Present: Messrs. J. Hodge, J. Jordan, C. Alford, D. Powell, S. Dance, M. Retallick, G. Hill, P. Abel, I. Mortimore, N. Atkinson, R. Savery, R. Michelmore, J. Wilkinson, A. H. Cole, B. Lavis, G. Ledger, R. Ashford, A. Coaker, C. Turner, J. Hockridge, R. Greep, Mesdames M. Alford, P. Newton, C. Seage and A. Robinson.

1. **Apologies** were received from Messrs J. Reddaway, R. Halliday and A. Gibson.
2. **Minutes** of the meeting held on Wednesday 16th December 1998 were confirmed and signed.
3. **Report on Matters discussed in committee at the last meeting**
 - a. **North Quarter - High Down** A farmer in the North Quarter had a number of cows calving on High Down. Written complaints from the public had been received about dead calves on the common and the cows were not cleansing properly and melting fast. The cows were not a hardy type and were struggling to survive. The Council arranged for a veterinary inspector to visit the site and he confirmed the reports, subsequently a letter was sent to the commoner asking him to remove the cattle within forty eight hours.
 - b. **Bridestow and Sourton** A commoner was reported to be grazing far in excess of his number of registered rights. It was agreed the Council should send a letter reminding the commoner of the number of sheep he is entitled to graze and ask him to remove excess stock from the common.
 - c. **Chagford Common** A number of complaints had been received from commoners about cattle being dumped on Week Down, a small area of Chagford Common. This area was used to feed cattle which resulted in severe damage to the surface of the common. As the owner of the cattle is known to have entered an ESA agreement on his in-bye land and has not traditionally grazed large numbers on the common in the past, the FRCA were asked to investigate the matter. Meanwhile the Council wrote to request the cattle be removed to prevent further damage and the commoner has since complied with the request.
 - d. **Mis Tor Track** The Chairman remarked on extensive damage to the base of Mis Tor Track caused by vehicles tyres driving around the barrier. Dr. Atkinson was asked to clarify the position of the National Park Authority regarding the damage and the outcome of the attempt to request that Maristow Estate unlock the barrier. He said a letter had been written by the authority to Maristow Estate but as yet there had been no response.
4. **Matters Arising:**
 - a. **Animal Welfare**

Ponies: The Animal Welfare Officer stated that during the preceding two months there had been one report of a yearling in poor condition. Marian

Saunders took action to get the filly to her feet and she continues to improve. In general ponies are in reasonable condition but they need to be watched with the onset of more severe weather conditions on the common. A report of a dead pony had just been received. It's owner was the same as that of the yearling reported earlier. The AWO stated she would visit the owner as soon as possible.

Sheep: No problems had been presented until recently when a case of sheep scab had been identified. This would be followed up immediately.

Cattle: Many cattle have been removed from the commons. As stated in her last report, cattle grazing in the North Quarter were causing concern. They were not hill cattle and were calving on high ground. The Council engaged a private veterinary surgeon who, accompanied by the Welfare Officer and council members assessed the situation on Dec 21st 1998. The Secretary had written to the cattle owner who subsequently removed most of the calving stock. The remaining cows were said to be barren and they will continue to be monitored. A letter from Lydford Commoners has since been received expressing concern about the welfare of the cattle and the damage they were causing to the moor. The commoners felt the cattle should be removed from the moor as soon as possible as they haven't been hefted in the traditional manner.

Action: A proposal by Mr. I Mortimore and seconded by Mr. G. Hill, to order the immediate removal of all the cattle off the moor. The Council agreed to apply Regulations 14 & 15, (i.e. spoiling the natural beauty of the common and feeding in contravention of the regulations). It was agreed the farmer should be given seven days notice to remove his stock and they should be prohibited from returning to the common until 20th May 1999 to enable the moor damage to recover.

- b. Overgrazing - Professor Brown's Report on Ugborough, Harford and Brent moors** Professor Brown stated, that after the survey of Ugborough, Harford and Brent Moors last year, there had been several important steps forward. One important point was the identification that, although there are problems and some quite severe problems on those commons, they were not as bad as the commoners had been led to believe. Secondly, in a subsequent meeting with MAFF and FRCA, the ministry indicated that, since Ugborough and Harford commoners had taken action, they were happy to allow more time to see the effects. The removal of the ponies from the commons and the ban on feeding concentrates during the winter was acceptable provide the commoners could quantify the stock reductions. Thirdly, it resulted in the invitation to the Dartmoor Commoners' Council and himself, to accompany the FRCA and ministry officials on inspections of other commons around Dartmoor where, in the ministries eyes, there was a problem. Professor Brown had the previous day, together with the Council Chairman John Hodge and Vice-Chairman John Jordan, accompanied a MAFF official and two of the FRCA officers responsible for the project work on Dartmoor to look at two or three commons that were high on their list for action to prevent overgrazing.

The fact that the Commoners' Council is now formally involved in inspection of that sort is a very important point. He had encouraged the Council over the preceding weeks to work very closely with the ministry and various agencies, to re-establish the fact that the Council should be looking after the commons and taking an active role through long term planning and discussion with the ministry.

However, he indicated the Council should consider two issues very carefully. Firstly, because of the cross compliance regulations, the ministry has a duty not to pay subsidy that would support stock causing environmental damage. MAFF are adamant there is environmental damage on Dartmoor. There are areas where overgrazing problems exist for whatever reason, and if they are drawn to the attention of the ministry by FRCA surveys, as is done at the moment, MAFF must take action, and the only action they consider appropriate at the moment is de-stocking. Professor Brown felt it would not be long before the ministry enforced de-stocking in some of the worst areas of the moor, through suspension and withdrawal of subsidy payments particularly if there is no action taken by the commoners. He felt that now the Council was being included in the meetings with MAFF, providing the Council shows they are trying to do something about the problems and come up with alternative proposals to deal with them, the ministry may be prepared to look at other options. A management plan for each of the commons should be prepared with a standard outline for its implementation. The recommended way forward would be to look at the areas that are causing concern at the moment and treat them as priorities.

Secondly, there is the Dartmoor ESA and the need to reduce the environmental pressure. ESA considerations and possible variations in stocking rates are something, he thought, that can flow at a later date out of alternative management proposals that the Council would put forward. If the Council does not put forward any proposal the ministry would have nothing to consider. It is important to realise the ministry will not wait much longer before taking action over the problem areas. There is now a unique opportunity for the Council to work with the other agencies and come up with its own proposals, as opposed to reacting to other people's proposals and pressures. Action should be taken quickly. Ugborough and Harford are an example of how positive action can be considered by the ministry. If the ministry feel the Council will look at and take action on problem areas, they will not be so keen to follow through with surveys and ultimatums on those areas.

In conclusion he stressed there is the need to take fairly urgent action but also a real opportunity to take the initiative in a positive way.

c. Biodiversity

Sue Goodfellow reiterated the moorland action plan is one of the number of plans being pulled together into one action plan for the whole of Dartmoor. The moorland action plan is particularly important because it involves the heart of Dartmoor which has lots of different habitats for wildlife. It provides a real opportunity to show how agricultural practices are looking after the special